

Soldier's Training Manual

Paralegal – 27D



The Judge Advocate General's Legal Center and School
Charlottesville, VA 22903

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Introduction

This training manual is a compilation of various subjects designed to assist paralegals in accomplishing their daily missions. The information contained herein has been derived from various sources to include but not limited to; Army Regulations, Field Manuals, the Operational Law Handbook, SOPs posted to JAGCNet, and input from professionals within the field.

This manual can be used as a training guide but in no way encompasses all tasks associated with being an Army paralegal. Many of the manual's Tasks have Performance Measures which are designed to test a soldier's knowledge about a specific subject, however, not all Tasks have Performance Measures. In addition to the standard "Task" style lessons there are a few information papers designed to help explain certain topics. This manual is designed as a supplement for your resource library.

Specific guidance on how to implement this training manual into your local training program is at the sole discretion of leaders at the local level. The intention of this manual is to provide all skill levels with a general understanding of the topic being presented. There are many examples of how to properly fill out forms, reports, and memorandums. The 27D soldier's manual is a tool to be used by all paralegals. This manual can be used as a stand alone training tool, or can be used to compliment a more in depth block of instruction.

Information in the legal field changes frequently. Paralegals at all levels should strive to stay abreast of changes and follow that guidance appropriately.

Suggestions, comments, or corrections to this manual should be sent to:

The Judge Advocate General's Legal Center and School
Attn: NCOIC, Training and Doctrine Development (TDD)
Charlottesville, VA 22903

Chapter 1



Military Justice

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Prepare and Process Record of Initial Action under Article 15, UCMJ.

Conditions: You are a battalion paralegal. A soldier in your battalion has been accused of violating various Articles of the Uniform Code of Military Justice (UCMJ). Your battalion commander has asked you to prepare an Article 15 for her signature. You have access to AR 27-10 and the MCM.

Performance Steps:

1. Review the file and coordinate with the commander and judge advocate (JA) to ensure that a violation of the UCMJ has been committed and that the commander has Article 15 authority over the offense and accused IAW the MCM and AR 27-10, Chapter 3.

2. Enter the verified name, pay grade, social security number (SSN), unit, and pay of the accused in the appropriate blocks in the heading of DA Form 2627.

a. Enter the accused's last name, first name, and middle initial.

b. Enter the accused's pay grade (E4, E5, etc.).

NOTE: The pay grade is a numerical device used in pay management and administrative fields. It is used on DA Forms 2627, 2627-1, and 2627-2 for such reasons and IAW the doctrine established in AR 27-10.

c. Enter the accused's SSN.

d. Use abbreviated unit (include at least two elements of the unit, station and ZIP Code or APO).

e. Determine the accused's base pay. Do not round off pay; include cents. If the accused is drawing any combat, sea, separation, or foreign duty pay, add that to the basic pay.

3. ITEM 1 - Enter each offense by stating the specific violation of the UCMJ along with the Article of the UCMJ violated. Prepare each offense statement in the second person - past tense, using sample specifications from Part IV, MCM.

4. ITEM 2 - Enter the location of legal counsel (Trial Defense Service) in the space provided.

5. ITEM 2 - Enter the name, rank, and at least two elements of the commander's organization in the appropriate blocks.

6. ITEM 3 – Enter the name and rank of the accused soldier.

7. ITEMS 2 and 3 - Line out all reference to a demand for trial if the accused is attached to or embarked on a vessel. (See note 3 on DA Form 2627.)

8. ITEM 5 - If the accused is a Corporal/E4 or below, cross out this line and enter "NA" to the right of the line. (IAW with AR 600-8-104 Military Personnel Information Management/Records Table 2-1.)

9. ITEM 6 - Enter the title and organization of the next superior authority in the space provided (e.g., "Cdr, 54th Sig Bn"). Only one element of the command is required.

10. ITEM 6 - Enter the name (FIRST MI. LAST), rank, and organization of the imposing commander.

11. ITEM 7 – Enter the name of the accused in the appropriate block. If the imposing commander does not have reduction authority, then enter the accused's rank after their name.

12. ITEM 11 - List supporting (allied) documents and ethnic and gender data (e.g., "W/M" means white male and should be entered along the right hand margin) IAW Note 13 on DA Form 2627 and AR 27-10. Forward the DA Form 2627 with allied documents to the commander for imposition. Allied data could include but is not limited to counseling statements, sworn statements, MP reports, enlisted record briefs, and written statements from the accused. Block 11 can also be used to continue a specification from block 1 if necessary and would be more appropriate than using a continuation sheet.

NOTE: Ensure the commander has a copy of Appendix B, Suggested Guide for Conduct of Non-judicial Punishment Proceedings (AR 27-10), and knows the maximum punishments that he or she can impose under Article 15, UCMJ. It is common practice to prepare a punishment worksheet to include with the Article 15 packet which allows the imposing commander to easily select appropriate punishments.

13. Destroy the DA Form 2627 if the commander has decided not to impose punishment or, if applicable, ensure the commander has lined out offense(s) which he has determined the accused did not commit. (See Note 5 on DA Form 2627.)

14. ITEM 2 - Ensure the commander signed the "SIGNATURE" block and the "DATE" and "TIME" block has been completed.

NOTE: The senior NCO in the command can read the charges to the accused but the block must be signed by the commander.

15. ITEM 3 - Ensure the accused initialed the applicable boxes and has completed the "SIGNATURE" and "DATE" blocks.

a. Obtain disposition of charge(s) from the commander if the accused initialed box 3a (demands trial by court-martial).

b. List all documents submitted by the accused, if any, in Item 11.

16. Enter the appropriate statement in Item 3 IAW AR 27-10, para 3-18f(4), if the accused has not completed or refuses to complete Item 3 within the decision period (including any extensions).

17. Ensure the commander initialed the appropriate boxes in ITEM 3 (1)(2)(3).

18. Ensure the punishment(s) imposed are within the limits authorized in MCM and AR 27-10, para 3-19, and Table 3-1.

19. ITEM 4 - Enter properly worded punishment IAW the MCM, AR 27-10, and Note 6 on DA Form 2627.

a. Ensure that when more than one punishment is imposed during any single Article 15 proceeding, punishments are listed in the following order (as appropriate): Reduction, forfeiture of pay, deprivations of liberty, admonition/reprimand.

b. Ensure the following formats are used:

1. Reduction. Reduction should be entered on DA Form 2627 as follows:
"Reduction to Grade of Rank (Pay Grade)"

Example A. "Reduction to Private First Class (E3)"

Example B. "Reduction to SPC (E4)"

2. Forfeitures. Forfeitures of pay will be entered on DA Form 2627 as whole dollar amounts only. If the forfeiture is to be applied for more than 1 month, the amount to be forfeited per month and the number of months should be stated.

Example A. When a forfeiture is to be applied for not more than 1 month: "Forfeiture of \$XXX.00."

Example B. When the forfeiture is to be applied for more than 1 month: "Forfeiture of \$XXX.00 per month for 2 months."

3. Deprivation of Liberty. Specific duties to be performed during extra duty are not normally specified on DA Form 2627. Limits on restriction may be listed on DA Form 2627 but are not required.

Example A. Extra duty and restriction, the limits of the restriction not listed on the form: "Extra duty for ____ days, restriction for ____ days."

Example B. Extra duty and restriction, the limits of the restriction listed on the form: "Extra duty for ____ days, restriction to the limits of _____ for ____ days."

c. Admonition and Reprimand.

1. Written admonitions and reprimands imposed as a punitive measure under Article 15, UCMJ, will be in memorandum format IAW AR 25-50 and will be listed as attachments in Item 11, DA Form 2627.

2. Oral admonition and reprimands will clearly be identified as oral in Item 4, DA Form 2627.

NOTE: See Performance Step 30 if additional space is needed.

20. ITEMS 5, and 6 - Ensure the imposing commander initials the appropriate box in Items 4 and 5. Ensure the imposing commander signs and dates (with date punishment imposed) item 6.

21. ITEM 7 - Ensure the accused has made an election as to appeal by initialing the appropriate box and completing the "DATE" and "SIGNATURE" blocks.

22. ITEM 7 - Enter the accused's rank (enter the reduced rank if an unsuspended reduction has been imposed) in the appropriate block.

NOTE: If the accused does not appeal or fails to make an appeal decision within a reasonable amount of time, proceed to Performance Step 28. If the accused appeals, proceed with the next performance measure.

23. Annotate and distribute copy four of DA Form 2627 IAW AR 27-10, paragraph 3-37, if the soldier received an unsuspended reduction or forfeiture as part of the punishment.

24. Attach and annotate in Item 11 any written matters submitted by the accused in appeal and the imposing commander's rebuttal, if applicable, IAW AR 27-10 and Note 11 on DA Form 2627.

25. Enter the imposing commander's action on appeal, if any, in block 9 IAW AR 27-10 and Note 10 on DA Form 2627. Enter in Item 11 "In view of the action taken, I voluntarily withdraw my appeal," followed by the accused's signature if the accused withdraws the appeal.

26. Forward the appeal with all allied documents to the servicing Staff Judge Advocate (SJA) office if the punishment imposed requires (or the superior authority desires) advice of a JA. (See Note 9 on DA Form 2627 and Article 15, UCMJ.)

27. ITEM 8 - Ensure Item 8 is completed, signed, and dated by a JA, if applicable.

28. ITEM 9 - Enter the name, rank, and organization of the superior authority and forward for appellate action.

29. ITEM 9 - Enter the superior authority's action IAW Notes 10 and 12 on DA Form 2627 and ensure the appropriate blocks are initialed, signed, and dated.

30. ITEM 10 - Ensure the accused signs and dates Item 10.

31. ITEM 11 - Enter "Para 3-18f(1), AR 27-10 complied with." IAW AR 27-10 if a change has occurred in imposing commanders during the proceedings.

32. ITEM 11 - Enter the following, if applicable:

a. List of allied documents (e.g., continuation sheets, documents supporting charges, documents submitted by the accused during proceedings, documents submitted by the accused in appeal, commander's rebuttal to appeal).

b. When one continuation sheet is used, enter "Continuation Sheet" in Item 11. When more than one continuation sheet is used, enter "Continuation Sheets (x)" where "x" is the number of sheets used.

c. Events not cited elsewhere, such as action on appeal by imposing commander.

NOTE: Item 11 can also be used to continue other items on the form. However, because of limited space, this is normally done using continuation sheets. (See Performance Measure 30.)

33. Continue an item, if necessary, by entering in the item ("see continuation sheet."). Prepare the continuation sheet on plain bond paper in the same number of copies as the DA Form 2627 using the following format:

a. Enter on the 8th line from top of page on the left margin "DA Form 2627, (Last Name), (First Name) (MI), (RANK), (SSN), (Unit).

EXAMPLE: DA Form 2627, JONES, JAMES E., SPC, 000-00-0000, Co A, 2d IN Bn, Fort Atterbury, IN 46124-9000

b. Skip a line and enter "Item x, continued:"

c. Skip another line and continue the item.

d. Use the same left and right margins as on DA Form 2627.

e. Number pages of continuation sheets approximately one inch and centered from bottom of page IAW AR 25-50. For example, the first continuation sheet used would be numbered as page 2, the second page as page 3, etc.

NOTE: The format of continuation sheets as shown for DA Form 2627 is consistent with the format used with other forms, such as DD Form 457 (Investigating Officer's Report), DD Form 458 (Charge Sheet), and DD Form 2329 (Record of Trial by Summary Court-Martial).

34. Enter the appropriate information on DA Form 5110, and verify punishments have been executed IAW para 3-39, AR 27-10.

35. Make distribution of the original DA Form 2627, copies of the DA Form 2627, and allied documents IAW AR 27-10, para 3-37.

36. Maintain statistical data IAW AR 27-10, Chapter 15.

References

1. MCM
2. AR 27-10

Performance Measure:

Scenario

Today is 7 Oct 04.

The accused is SPC/E4 Lisa B. Buzzworthy, 444-11-3265, Headquarters and Headquarters Company, 754th Aviation Battalion, Fort Atterbury, Indiana 46124-9000.

BASD: 6 Jun 01

BEPD: 6 Jun 01

Race: Black

Sex: Female

Base Pay Chart

	2 Years	3 Years	4 Years	6 Years	8 Years
E4	\$1638.30	\$1726.80	\$1814.10	\$1891.50	\$1891.50
E5	\$1813.50	\$1901.10	\$1991.10	\$2130.60	\$2250.90
E6	\$2041.20	\$2131.20	\$2218.80	\$2310.00	\$2516.10

Company Commander: CPT JOSHUA CRABTREE

Battalion Commander: LTC JULIE WOOD

1st Aviation Brigade Commander: COL MICHAEL SMITH

Division Commander: MG STEVE GUFF

TDS location: Bldg. 6287, Fort Atterbury, IN 46124-9000

Trial Counsel: CPT TYRONIUS LAW

SFC Michael R. James is SPC Buzzworthy's platoon sergeant. On 4 Oct 04, SFC James claims SPC Buzzworthy walked into his office and said "get your lazy butt to work." SFC James' office is located in the 754th AVN BN motor-pool on Fort Atterbury. SFC James provided a DA Form 2823, Sworn Statement, dated 4 Oct 04.

On 1 Oct 04, SPC Buzzworthy missed the 0630 PT/accountability formation which takes place outside of the company headquarters building. SGT Pile (SPC Buzzworthy's squad leader) provided a DA Form 4856, Counseling Statement, dated 1 Oct 04.

On 3 Oct 04, SPC Buzzworthy was driving her 1995 Toyota Rav 4 at the corner of Battalion Avenue and Soldier Road on Fort Atterbury when she was pulled over by the

military police. SGT Washington, the MP, noticed a strong odor of alcohol on SPC Buzzworthy's breath. SGT Washington administered a set of field sobriety tests which SPC Buzzworthy failed, he decided to take her to the Provost Marshall's office for a breathalyzer test. SPC Buzzworthy blew a .105%. You obtained a copy of the MP report, #335-80-33LB, dated 5 Oct 04.

LTC Wood read the Article 15 to SPC Buzzworthy on 7 Oct 04 at 1815 hours. SPC Buzzworthy met with trial defense counsel on 8 Oct 04 and decided not demand trial by court-martial. Additionally, SPC Buzzworthy decided to have an open hearing but did not request to have a person speak on her behalf. Matters in extenuation and mitigation were not submitted. LTC Wood held the proceedings on 8 Oct 04, and in an open hearing, found SPC Buzzworthy guilty of all three offenses. LTC Wood handed down the following punishment:

Reduction to PV1(E1), suspended for 3 months.
Forfeiture of \$500.00 pay per month for two months.
Extra duty for 45 days.
Restriction to the limits of Fort Atterbury, Indiana for 45 days.

SPC Buzzworthy elected to appeal but did not attach additional matters.

On 9 Oct 04, CPT Law, the trial counsel, reviewed the Article 15 and did not find any discrepancies in either the proceedings or punishment.

On 10 Oct 04, COL Smith denied the appeal. SPC Buzzworthy acknowledged the appeal on 10 Oct 04.

Requirement

Prepare an Article 15 through the appeals process using the following scenario. Ensure all information is correctly entered on DA Form 2627 and any necessary continuation sheets.

See Appendix A-1 for the answers to this exercise.

Prepare a Record of Supplementary Action under Article 15, UCMJ.

Conditions: You are a battalion paralegal. A soldier in your battalion currently serving a suspended punishment from a recent Article 15 has allegedly committed another offense under the UCMJ. Your battalion commander has asked you to prepare a DA Form 2627-2, to vacate the suspended punishment.

Performance Steps:

1. Ensure the commander has the authority to take the supplementary action.
2. Review the initial DA Form 2627 and ensure the supplementary action is within the limitations prescribed by AR 27-10 and the MCM.
3. Prepare the DA Form 2627-2 IAW AR 27-10 and the MCM:
 - a. Enter the accused's last name, first name, middle initial, pay grade, SSN, and unit (to include ZIP code or APO) in the appropriate blocks.
 - b. Check appropriate box for the type of supplementary action.
 - c. Complete applicable Item 1 through 5. Cross-out inapplicable items as appropriate.
 - d. Enter the name, rank, and organization of the commander in the appropriate block.
(Capitalize name and use rank in signature block IAW AR 25-50.)
4. Ensure the filing determination on the initial DA Form 2627, if applicable, is annotated on the DA Form 2627-2. If not applicable, enter "NA".
5. Ensure DA Form 2627-2 is properly authenticated:
 - a. Make sure appropriate authentication boxes are checked.
 - b. Make sure the form is signed and dated.
6. Make distribution IAW AR 27-10, Chapter 3.
7. Ensure DA Form 5110 is annotated IAW AR 27-10 if used.

References

1. MCM
2. AR 27-10

Performance Measure:

Scenario

Today is 15 Oct 04.

SPC Buzzworthy was in the process of performing extra duty at battalion headquarters on the evening of 14 Oct 04. As she scrubbed away at boot-marks on the floor, CPT Marvin Manning, the SDO, walked over and told her to hurry up because she was taking too long. SPC Buzzworthy got up from the floor, looked CPT Manning straight in the eye, and told him to go sit on an improvised explosive device (IED). CPT Manning immediately told her to "at ease," but SPC Buzzworthy turned her back, put the palm of her hand in front of CPT Manning's face and walked out of the building.

CPT Manning provided LTC Wood a sworn statement (DA Form 2823) dated 15 Oct 04. LTC Wood informed you that she wants to vacate the suspended reduction imposed on SPC Buzzworthy on 8 Oct 04 based on the offense listed above. LTC Wood wants to conduct the vacation today. SPC Buzzworthy was given an opportunity to rebut and was present at the proceedings.

Requirement

Prepare a record supplementary action under Article 15 (DA Form 2627-2) vacating the suspended punishment of SPC Buzzworthy (use the scenario from the Task: Prepare initial action under Article 15, UCMJ).

See Appendix A-2 for the answers to this exercise.

Process Soldier for Pretrial Confinement.

Condition: You are a battalion paralegal. The trial counsel has informed you that a soldier from your battalion is being placed into pretrial confinement for committing a dangerous crime and has tasked you to prepare the confinement order.

Performance Steps:

1. Notify the SJA or his/her designee prior to the accused's entry into confinement or as soon as practicable afterwards.
2. Coordinate with TDS to have counsel assigned to the accused ASAP and NLT 72 hrs. after initial confinement.
3. Properly fill out DD Form 2707 blocks 1 through 8.
4. In block 4 summarize the charges and specifications the accused has allegedly violated.
5. In block 7 type the name of the person directing confinement, typically the commander of the accused.
6. In block 8 type the name of the officer conducting the legal review for the pretrial confinement, typically the trial counsel.

NOTE: Medical certificate information will be completed at the detention facility IAW AR 190-47.

7. Ensure DA Form 5112 (Checklist for Pretrial Confinement) has been completed IAW AR 27-10 and the MCM and is included with the accused's records.
8. Ensure the unit commander has had the accused's military clothing and personal property inventoried IAW AR 190-47 and AR 700-84.
9. Ensure the accused's unit commander has coordinated the necessary transportation and escort(s) requirement.

NOTE: It is recommended that two soldiers who are senior or equal in rank to the accused act as escorts. Physical size of both the accused and escorts should be taken into consideration.

10. Ensure the following documents are forwarded to the confinement facility with the accused:

- a. DD Form 2707 (original and one copy).
- b. DA Form 5112.
- c. DA Form 3078 or list of clothing items transferred with the accused (AR 700-84).

d. Inventory of personal property and excess military clothing retained at the unit for safekeeping IAW AR 700-84.

NOTE: A 48 hour probable cause determination is required IAW the MCM, as is a 72 determination memorandum provided by the commander and a 7 day review. R.C.M. 305 covers pretrial confinement.

11. Ensure the following documents are forwarded within 24 hours to the military magistrate that conducts the probable cause hearing:

- a. DD Form 2707 (copy).
- b. DA Form 5112.
- c. DD Form 458 and allied papers as applicable.

12. When the escorts drop the soldier off at the confinement facility ensure they get DD Form 2707 signed depicting the confinement officer's or authorized representative's "Receipt for Prisoner."

References

- 1. AR 27-10
- 2. MCM
- 3. AR 190-47
- 4. AR 700-84
- 5. AR 25-50
- 6. AR 310-50

Performance Measures:

Requirement Take the written test below.

1. DA Form 5112 is titled what?
2. Where is the medical portion of the confinement order completed? Cite the regulation to include paragraph where the information is found.
3. What R.C.M. in the MCM covers pretrial confinement?
4. When must the SJA be notified that a soldier is being placed into pretrial confinement? Cite the regulation and paragraph.
5. Why would you take physical size of the soldiers selected to be escorts and that of the accused into consideration?
6. Where can information about the 48 hour probable cause determination and the 7 day review be found?

See Appendix A-3 for the answers to this exercise.

Prepare and Process Court-Martial Documents through Preferral.

Conditions: You are a battalion paralegal. Your NCOIC has just handed you a CID report alleging various violations of the UCMJ by a soldier in your unit. After consulting with the trial counsel and commander you were tasked to prepare the charges.

Performance Steps:

1. Coordinate with the unit commander and judge advocate and ascertain the following:
 - a. That a violation of the UCMJ has been committed.
 - b. UCMJ jurisdiction exists over the accused and the offense.
 - c. Sufficient information exists in the file to proceed with the case.
 - d. The most appropriate way to charge the offense.
2. Obtain evidence/documents from the unit commander or other authorities substantiating the charges. Draft the charges and specifications IAW the MCM.
3. Request a certified ERB from the proper authority (typically unit S1), also request certified copies of awards, evaluations, and any non-judicial punishment previously received.
4. Prepare DD Form 458 IAW the MCM Appendix 4, and AR 27-10.
5. ITEM 1 - Enter the accused's last name, first name, and middle initial. Enter other elements of the name, such as "Jr." or "III" if any. When the accused is known by an alias, the alias must also be listed if it is important to the case.
6. ITEM 2 - Enter the accused's SSN.
7. ITEMS 3 and 4 - Enter the accused's rank (e.g., SSG) and pay grade (e.g., E6) in the spaces provided in the "GRADE OR RANK" and "PAY GRADE" blocks
8. ITEM 5 - Enter the accused's organization (complete unit designation, including station and ZIP Code or APO.)
9. ITEM 6 - Enter the accused's current service data as follows:
 - a. Initial Date - To get this date subtract term of service from the ETS date and add one day.

EXAMPLE: ETS Date 020322 (22 Mar 02)
 Term of Service 040000 (this equals 4 years)
 980322
 Add one day 000001
 980323 (23 Mar 98)

b. Term of Service - Enter, in years, the duration of the current enlistment.

10. ITEM 7 - Enter the accused's pay per month:

a. Basic Block - Basic pay is determined by subtracting the accused's basic active service date from today's date. Do not round off pay; include cents.

b. Sea/Foreign Duty Block - If the accused is drawing any sea or foreign duty pay enter it here. If no sea or foreign duty pay is received enter "None".

c. Total Block - Add the basic and the sea/foreign duty blocks together.

11. ITEMS 8 and 9 - Enter the nature and date(s) of any pretrial restraint (as defined by the MCM) imposed on the accused. If any form of restraint was terminated prior to trial, enter the termination date in Item 9.

NOTE: For Items 1-9 see AR 27-10 for requirements if more than one accused is charged on the same charge sheet with the commission of a joint offense.

12. ITEM 10 - Enter the properly drafted charges and specifications IAW the MCM.

13. ITEMS 11a through e - Ensure the accuser is subject to the UCMJ. Complete blocks 11a through e as follows:

a. Name of Accuser - Enter the last name, first name and middle initial of the accuser.

b. Grade - Enter the rank of the accuser (e.g., (Captain, Major)).

c. Organization of Accuser - Enter at least two elements of the accuser's organization.

d. Signature of Accuser - Ensure the accuser signs this block after being sworn by the officer administering the oath.

e. Date - Enter the date the accuser signs the form.

14. Ensure the "Affidavit" is completed, signed, and dated by a commissioned officer (includes commissioned warrant officer) authorized to administer oaths IAW Article 136, UCMJ.

15. ITEM 12 - Ensure the notification is completed and signed by the immediate commander IAW the MCM.

16. Prepare a transmittal memorandum IAW the MCM, AR 27-10, and AR 25-50. Ensure the memorandum is signed, dated, and forwarded with all enclosures (charge sheet and allied papers) to the Summary Court-Martial Convening Authority (SCMCA).

NOTE: Transmittal memorandums are designed to get the recommendation of the chain of command as to disposition of the charges.

17. ITEM 13 - Ensure the receipt is completed and signed IAW the MCM.

18. Ensure the charge sheet and allied papers are forwarded through the chain of command by memorandum to the officer exercising the appropriate court-martial jurisdiction IAW the MCM and AR 27-10.

19. Ensure the DD Form 458 and allied documents are legible and correctly completed IAW the MCM Appendix 4.

References

1. MCM
2. AR 27-10
3. AR 25-50
4. AR 600-20
5. AR 310-50

Performance Measures:

Today is 7 Oct 04. You are the battalion paralegal for 1/12th IN Bn, 1st Bde, 54th ID (Mech) Fort Atterbury, IN 46124-9000. Your battalion commander exercises summary court-martial jurisdiction.

You are working on the case of US v. Washington. Data on the accused and additional information:

- a. Accused: SSG Karl O. Washington
- b. SSN: 008-88-7465
- c. Unit: Co A, 1/12th IN Bn.
- d. ETS date: 090112
- e. Term of current service: 6 years.
- f. BASD: 23 January 1999
- g. PEBD: 23 January 1999
- h. Sea/foreign duty pay: None.
- f. The accused was placed in pretrial confinement today.
- g. Offenses occurred at Fort Atterbury, Indiana.
- h. Race: White.
- i. Sex: Male.

Base Pay Chart

	2 Years	3 Years	4 Years	6 Years	8 Years
E4	\$1638.30	\$1726.80	\$1814.10	\$1891.50	\$1891.50
E5	\$1813.50	\$1901.10	\$1991.10	\$2130.60	\$2250.90
E6	\$2041.20	\$2131.20	\$2218.80	\$2310.00	\$2516.10

Extract from sworn statements by Ms. Gloria Groves:

(1) "At 1800, 5 Oct 04, I was apologizing to SSG Washington for using obscene language towards him. While I was talking to him, he said that we have more than a failure to communicate. He then became very upset and started screaming that he was going to kill me if it was the last thing he ever did."

(2) "At 0100, 6 Oct 04, I was at home watching TV and I heard a knock on the door. I looked out and saw SSG Washington standing outside so I opened the door to see what

he wanted. After I let him inside, he started hitting me on my back with a stick. I fell on the floor and started crying. After he left I had to be taken to the hospital because I had received seven deep cuts on my back."

(3) SSG Washington was placed in pretrial confinement on 7 Oct 04.

Situation 1

The company commander, CPT Steven L. Jones, IN, directed that you prepare a DD Form 458 for his signature. The charges will be sworn today before CPT Theodore Davis, JA, trial counsel (CPT Davis is assigned to HHC, 1st Bde)

Requirement

Prepare the appropriate items of a DD Form 458.

Situation 2

CPT Jones notified SSG Washington of the charges today. The charges were forwarded and received at the battalion by the commander, LTC Jose V. Perez, at 1000 today.

Requirement

Prepare the appropriate items of a DD Form 458.

See Appendix A-4 for the answers to this exercise.

Prepare and Process an Article 32 Investigation.

Conditions: You are a battalion paralegal. Charges have been preferred with a view to general court-martial against a soldier assigned to your unit (no charges may be referred to a General Court-Martial without giving the accused the opportunity to an Article 32 hearing). The brigade commander has directed that an Article 32 hearing take place.

Performance Steps:

NOTE: The primary purpose of the investigation required by Article 32 is to inquire into the truth of the matters set forth in the charges, the form of the charges, and to secure information on which to determine what disposition should be made of the case. The investigation also serves as a means of discovery. The function of the investigation is to ascertain and impartially weigh all available facts in arriving at conclusions and recommendations, not to perfect a case against the accused. The investigation should be limited to the issues raised by the charges and necessary to proper disposition of the case. A pretrial investigation is not required for special or summary court-martials.

1. Get the name of the investigating officer (IO) from the appointing authority.

NOTE: The appointing authority is the person directing that the Art 32 hearing take place and assigns the investigating officer to this duty. An appointing authority can be anyone authorized to convene a court-martial. The investigating officer should be an officer in the grade of major or higher or one with legal training. The investigating officer may seek legal advice concerning the investigating officer's responsibilities from an impartial source but may not obtain such advice from counsel for any party. Pretrial Investigation is covered in the MCM under Article 32 and R.C.M. 405.

2. Prepare a memorandum appointing and providing instruction to the investigating officer IAW the MCM, R.C. M. 405(c)(d), AR 15-6, and AR 25-50. The appointment memorandum often includes guidance as to granting delay requests, suspense for having the report completed, how to contact a legal advisor, and the fact that duty as an investigating officer is a primary duty. (See Appendix A-5 for an example of what an appointment memorandum can look like)

3. Forward (hand carry if possible) the appointment memorandum, case file, and any additional documents to the IO. Provide the IO with a copy of the MCM and DA PAM 27-17. (IAW DA Pam 27-17 para. 1-2(b), administrative law attorneys provide legal advice to the IO, coordinate as necessary)

4. Prepare a memorandum of notification to notify the accused of the Article 32 Investigation (there is an example of this memorandum in DA PAM 27-17, Figure 2-2).

5. The accused must acknowledge notification of the investigation. Coordinate with the appointed defense counsel and the IO for completion of the accused's acknowledgment by memorandum IAW DA PAM 27-17, Figure 2-3.

6. Coordinate securing the attendance of civilian witnesses not employed by the government with the IO as necessary IAW the MCM, R.C.M. 405(g).

7. Coordinate securing the attendance of military/government employed witnesses with the IO and the witness's commanders/supervisors IAW the MCM and AR 27-10. Ensure Victim/Witness Liaison (VWL) is notified of names of victims or witnesses IAW AR 27-10.

8. Assist the IO during the investigation by taking notes and recording the proceedings (use of a blank DD Form 457 is helpful in making sure the IO has covered all necessary steps in the investigation).

9. Ensure the witness's testimony is accurately recorded on DA Form 2823 IAW DA PAM 27-17. It is common practice to summarize the entire proceeding on plain bond paper. If testimony is prepared on plain bond paper it is the investigating officer's responsibility to ensure its' accuracy.

NOTE: AR 635-200, Figure B-1 shows an example of how to summarize testimony and report the proceedings of a board. This format is often used instead of recording testimony on DA Form 2823. Check with your IO, trial counsel, and appointing authority to see if this is acceptable in your case. To see an example of how to properly fill out DD Form 457 refer to DA PAM 27-17, figure 4-1 or the MCM Appendix 5.

10. Prepare appropriate memoranda from the IO to the appointing authority forwarding the report IAW DA PAM 27-17 and the MCM.

NOTE: It is common practice for the investigating officer to prepare a memorandum explaining in detail his/her recommendation as to the disposition of charges to the appointing authority. This is not a requirement however.

11. Forward the report (hand carry if possible) to the appointing authority.

NOTE: The appointing authority is not bound by the recommendation of the investigating officer.

12. Ensure the accused and defense counsel are provided a copy of the report IAW the MCM. Have the accused and defense counsel sign a receipt for the report and add this receipt to your original case file.

NOTE: Ensure defense delays are properly noted and explained in the investigating officer's report. Insufficient explanations as to the validity of such delays can be used against the government for speedy trial purposes.

References

1. MCM
2. AR 27-10
3. DA PAM 27-17
4. AR 635-200

Performance Measures: Answer the following questions. Use of the MCM and DA PAM 27-17 are allowed in taking this test.

1. Under what rule for court-martial are pretrial investigations covered?
2. What rank should the investigating officer be?
3. What DA PAM covers pretrial investigations?
4. TRUE or FALSE: A pretrial investigation is required for a Special Court-Martial empowered to adjudge a bad-conduct discharge. Provide a cite for your answer.
5. TRUE or FALSE: The accuser in a case is not allowed to be the investigating officer. Provide a cite for your answer.
6. TRUE or FALSE: Only Special and General Court-Martial convening authorities can order pretrial investigations. Provide a cite for your answer.
7. Does the IO have to approve reasonable requests for delay by the accused? Provide a cite for your answer.
8. TRUE or FALSE: Access to the pretrial investigation by spectators is decided by government counsel. Provide a cite for your answer.
9. What is the primary purpose of the pretrial investigation required by Article 32?
10. TRUE or FALSE: Consultation between the investigating officer and his/her impartial legal advisor is considered protected communication. Provide a cite for your answer.
11. TRUE or FALSE: A government representative (trial counsel) is not required in an Article 32 investigation. Provide a cite for your answer.

See Appendix A-6 for the answers to this exercise.

Prepare Referral to Trial.

Conditions: You are a paralegal working in the Office of the Staff Judge Advocate and have been tasked to prepare DD Form 458, Charge Sheet, through referral.

Performance Steps:

NOTE: Before any charge may be referred for trial by a general court-martial, it shall be referred to the staff judge advocate of the convening authority for consideration and advice. Pretrial advice need not be prepared in cases referred to special or summary courts-martial. A convening authority may, however, seek the advice of a lawyer before referring charges to such a court-martial.

1. Ensure Parts I through IV, DD Form 458, are completed IAW the MCM and AR 27-10. There is an example of how to properly fill out DD Form 458 in Appendix 4.
2. Ascertain from the convening authority the type of court-martial to which the case will be referred.
3. Obtain the appropriate convening order(s) or, in the case of a Summary Court-Martial (SCM), the convening authority's selection as an SCM.
4. Complete items 14a-c, Part V, DA Form 458 as follows:
 - a. BLOCK 14a - Enter the convening authority's designation of command (unit). This block should always start with "HQ". After entering "HQ", enter at least two elements of the command for Brigades or lower echelons. Only one element is required for Division or higher echelons.
 - b. BLOCK 14b - Enter the geographical location of the command. The zip code must also be entered in this block.
 - c. BLOCK 14c - Enter the date the referral is signed.
5. Enter the type of court-martial in the space provided.
6. For a special or general court-martial enter the CMCO(s) and the date(s) of the order(s) in the space provided after the words "convened by" if referred to a SPCM or GCM.
7. For a summary court-martial enter after the words "convened by this detail of (Rank and Name of SCM) as a Summary Court-Martial on (date)" IAW AR 27-10.
8. Enter any special instructions of the convening authority in the appropriate space IAW the MCM. If there are no special instructions, enter "None." Examples of special instructions are:
 - a. Additional Charges - to be tried in conjunction with the original charges.

- b. Joint Trial - to be tried jointly with (Rank and Name of co-accused).
 - c. Common Trial - To be tried in common with (Rank and Name of other accused).
 - d. Special BCD - this court is empowered to adjudge a Bad Conduct Discharge.
 - e. Capital Offenses - to be tried as a (capital) (non-capital) case.
9. Ensure the referral is authenticated IAW the MCM, AR 27-10, and AR 25-50
- a. Delete the preprinted authority line words "By" and "of" if the referral will be personally signed by the convening authority.
 - b. Enter the following authority line if the referral is signed for the convening authority:
 - 1. "BY COMMAND OF (insert Rank and Last Name of the CMCA)," when the CMCA is a general officer.
 - 2. "BY ORDER OF (insert Rank and Last Name of the CMCA)," when the CMCA is below the rank of BG.
 - c. Enter the name, rank, and official capacity of the official signing on the appropriate lines.
10. If charges are referred to a court-martial different from that to which they were originally referred (commonly called the FLAP):
- a. Prepare Part V of a blank charge sheet. Cut out the newly prepared Part V and fasten it over the previous referral forming a "flap."
 - b. Ensure the previous referral is lined out and initialed by the person signing the new referral. Do not obliterate the previous referral.
11. Coordinate with the trial counsel to serve the charges on the accused IAW the MCM and AR 27-10.
12. Ensure the service of charges portion of DD Form 458 is completed, signed, and dated IAW the MCM and AR 27-10, by the trial counsel.
13. Inform the defense counsel that the accused was served charges.
14. Provide the trial and defense counsel a complete copy of the SPCM or GCM file.
15. Provide the military judge a copy of the charge sheet, CMCO(s), and the accused's ERB.

16. Ensure the SCM officer receives the SCM packet, DA PAM 27-7, and the MCM.

17. Ensure coordination is made with the Victim/ Witness Liaison and provide copies of case file as necessary.

NOTE: Immediately on referral of charges for trial, the trial counsel will serve or cause the charges to be served on the accused and furnish a copy of the charges and specifications to the defense counsel and trial judge detailed to the court-martial. If the accused has been or is under pretrial restraint, the trial counsel will inform the trial judge of its nature and duration.

References

1. MCM
2. AR 27-10

Performance Measures:

Situation 1

You are the battalion paralegal for 1/12th Infantry Battalion, 1st Brigade, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000. Your battalion exercises summary court-martial jurisdiction. Today is 9 Nov 04 and your battalion commander, LTC Jose V. Perez, IN, has informed you that he wants to refer the case of PFC Nick N. Nature for trial by SCM and has instructed you to prepare a referral to trial for his signature. He has also informed you that MAJ Jason McKany, 663-00-5541 will be the summary court-martial officer. There are no special instructions for the court. Your unit's trial counsel is CPT Theodore Davis and he will serve the accused today.

Requirement

Prepare the appropriate portions of Part V, DD Form 458.

Situation 2

You are the brigade paralegal for 1st Brigade, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000. Your brigade exercises special court-martial jurisdiction. Today is 10 Nov 04 and your brigade commander, COL David Tahoe, IN, has instructed you to refer SFC Roger Cowboy to a special court-martial with no special instructions. The current court-martial convening order is number 1, dated 13 Jun 04. COL Tahoe will sign the referral today. Your unit's trial counsel is CPT Theodore Davis. CPT Davis personally served the accused a copy of the referral today.

Requirement

Prepare the appropriate portions of Part V, DD Form 458.

Situation 3

You are a paralegal at the Office of the Staff Judge Advocate, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000. Today is 15 Nov 04. The division commander, MG Guadalupe O. Bronx, has directed that the case of SPC Sharon T. Gone, who is charged with murder, be referred for trial by GCM. MSG Helen Morgan, Senior Paralegal NCO, will sign the referral for MG Bronx tomorrow morning. The current court-martial convening order is CMCO No 2, dated 2 Jun 04. MG Bronx has directed that this case be tried as a non-capital case. The trial counsel for the case is CPT Theodore Davis. CPT Davis has directed that you serve the charges on the accused as soon as the referral is signed.

Requirement

Prepare the appropriate portions of Part V, DD Form 458.

See Appendix A-7 a, b, c, for the answers to this exercise.

Prepare and Process a Soldier for Post-Trial Confinement.

Conditions: You are a paralegal and the case you have been assisting the trial counsel with just finished. One more bad guy is off the street and now you have to prepare the soldier for post-trial confinement.

Performance Steps:

1. Fill out DD Form 2707 blocks 1 through 8.

NOTE: Medical certificate information will be completed at the detention facility IAW AR 190-47 paragraph 10-5(b)(2).

2. Properly fill out or obtain from your victim witness coordinator DD Form 2704 Witness Certification and Election Concerning Inmate Status and DD Form 2705 Victim/Witness Notification of Inmate Status.
3. Properly fill out DA Form 4430 Report of Result of Trial IAW AR 27-10.
4. Ensure the unit commander has had the inmate's military clothing and personal property inventoried IAW AR 190-47 and AR 700-84.
5. Ensure the inmate's unit commander has coordinated the necessary transportation and escort(s).
6. Ensure the following documents are forwarded to the confinement facility with the inmate:
 - a. DD Form 2707 (original and one copy).
 - b. DA Form 3078 or list of clothing items transferred with the accused (AR 700-84).
 - c. DA Form 4430 Report of Result of Trial
 - d. DD Form 2704 Victim/Witness Certification and Election Concerning Inmate Status
 - e. DD Form 2705 Victim/Witness Notification of Inmate Status
 - f. Inventory of personal property and excess military clothing retained at the unit for safekeeping IAW AR 700-84.
7. Ensure the escort obtains a signed copy of DD Form 2707 with the confinement officer's or authorized representative's "Receipt for Prisoner."

References

1. AR 190-47
2. AR 700-84
3. AR 27-10

Performance Measures:

Situation Today is 30 October 2004. You have just received guidance from your trial counsel to prepare a confinement order for SPC Alex Ramirez, 339-84-3219, Headquarters and Headquarters Company, 2/12th Infantry Battalion, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000. This punishment is the result of a conviction at a Special Court-Martial.

SPC Ramirez was found guilty of the following offenses:

Charge: Article 126.

Specification: In that SPC Alex Ramirez, U.S. Army, did, at Fort Atterbury, Indiana, on or about 14 June 2004, willfully and maliciously set on fire an inhabited dwelling, to wit: building 1667, the barracks belonging to Headquarters and Headquarters Company, 2/12th Infantry Battalion, the property of the U.S. Army, of a value of about \$650,000.00.

The sentence adjudged today, is confinement for one year and reduction to PV1(E1).

CPT Tom Brady the brigade trial counsel will be signing the confinement order today at 1530 hours. MAJ Benjamin Pierce the senior trial counsel will be conducting the legal review today.

Requirement

Prepare DD Form 2707 for CPT Brady's signature.

See appendix A-8 for the answers to this exercise.

Prepare and Process Summary Courts-Martial.

Conditions: You are serving as a battalion paralegal. A soldier in your unit has turned down proceedings under Article 15 (field grade) and the battalion commander, in consultation with the company commander and the trial counsel, has decided to prefer charges to a Summary Court-Martial.

Performance Steps:

1. Maintain possession of all original court-martial documents:
 - a. DD Form 458 (Charge Sheet).
 - b. Transmittal memorandums.
 - c. Allied documents listed on memorandums.
 - d. Trial notes or draft DD Form 2329 (Record of Trial by Summary Court-Martial)
 - e. Documents presented at trial.
 - f. DA Form 5111(Summary Court-Martial rights Notification/waiver statement).
 - g. DA Form 4430 (report of result of trial).
 - h. Confinement order if applicable.
2. Ensure DA Form 5111 is completed. Coordinate with TDS personnel as necessary.
3. Complete DD Form 2329 Record of Trial by Summary Court-Martial items 1a through 1d as follows:
 - a. BLOCK 1a - Enter the accused's last name, first name, and middle initial.
 - b. BLOCK 1b - Enter the accused's grade or rank.
 - c. BLOCK 1c - Enter at least two elements of the accused's unit and include the geographical location and ZIP Code or APO.
 - d. BLOCK 1d - Enter the accused's SSN.
4. Complete items 2a through 2d as follows:
 - a. BLOCK 2a - Enter the convening authority's last name, first name, and middle initial.
 - b. BLOCK 2b - Enter the convening authority's rank.

c. BLOCK 2c - Enter the convening authority's position (e.g., Commander or Acting Commander).

d. BLOCK 2d - Enter at least two elements of the convening authority's organization and include the geographical location and ZIP Code or APO.

5. Complete items 3a through 3c as follows:

a. BLOCK 3a - Enter the SCM's last name, first name, and middle initial.

b. BLOCK 3b - Enter the SCM's rank.

c. BLOCK 3c - Enter at least two elements of the SCM's unit and include the geographical location and ZIP Code or APO.

6. ITEMS 4 and 5 - Enter the date of the preliminary proceedings in the space provided and place an "X" in the yes or no block as appropriate.

7. ITEM 6 - Enter date of trial proceeding and ensure a box is checked as appropriate and that the accused has initialed this block.

8. Complete Item 7 as follows:

a. BLOCK 7a - Ensure one of the boxes is checked as appropriate.

b. BLOCK 7b - If represented by a defense counsel, enter the defense counsel's last name, first name and middle initial. If not represented by counsel, leave this block blank.

c. BLOCK 7c - If represented by a defense counsel, enter the defense counsel's rank. If represented by a civilian attorney or if not represented by counsel, leave this block blank.

d. BLOCK 7d - If represented by qualified counsel enter "Qualified as a defense counsel under the provisions of R.C.M. 502(d)(3), MCM. If not represented by counsel, leave this block blank.

9. ITEM 8 - Delete the word "attached" and substitute the word "following." Enter summarized description of the charges and specifications on which the accused was arraigned. Ensure all articles of the UCMJ charged are listed and accompanied by a summarization of each specification which sufficiently alleges the offense, date of the offense, and all aggravating factors or values affecting maximum punishments. (See format in the MCM, Appendix 17, and Discussion, R.C.M. 307(c)). Enter the accused's pleas and the findings.

10. ITEM 9 - Enter the sentence verbatim as it was announced at the trial.

11. ITEM 10 - Ensure the applicable box has been checked or "NA" is entered when there is no confinement.

12. ITEM 11 - Ensure the applicable box has been checked or "NA" is entered in the case of an acquittal.

13. ITEM 12 - Ensure the SCM has been authenticated and dated.

14. Attach the original DA Form 5111 to the original record of trial (DD Form 2329) and a copy of DA Form 5111 to all copies of the court-martial packet.

15. Ensure a copy of the authenticated record of trial (including supporting documents) is served on the accused IAW the MCM and AR 27-10. The accused's receipt may be annotated following the charges in item 8 or on a continuation sheet, if used; or attached to the record of trial when prepared as a separate document.

16. Ensure a DA Form 4430 is prepared IAW AR 27-10.

17. Ensure a DD Form 2707 (Confinement Order) is prepared if the accused was sentenced to confinement.

18. Forward the original and one copy of the record to the convening authority for action (Item 13) if the trial resulted in a conviction and applicable time periods under R.C.M. 1105 have expired.

Note: After a summary court-martial, the accused may submit matters under R.C.M. 1105 within 7 days after the sentence is announced. If the accused shows that additional time is required to submit such comments, the convening authority may, for good cause, extend the period in which comments may be submitted for up to 20 additional days. In other words, the convening authority cannot take action until 7 days after the SCM took place or until after the accused submitted matters for consideration.

19. ITEM 13 - Enter the convening authority's action, if any, IAW Appendix 16 of the MCM and AR 27-10.

20. Make copies of DD Form 2329 and distribute them IAW AR 27-10.

21. Forward the original record of trial for legal review IAW the MCM, R.C.M. 1112.

NOTE: The legal review is typically performed by the administrative law office and will contain the following statement "This record of trial has been reviewed under Article 64(a), UCMJ, and R.C.M. 1112 and is legally sufficient."

22. Maintain statistical data IAW AR 27-10, Chapter 15.

NOTE: The Record of Trial for a Summary Court-Martial will be distributed IAW Chapter 12, para. 7, AR 27-10.

References

1. MCM
2. AR 27-10
3. DA PAM 27-7

Performance Measures:

General Situation

You are the battalion paralegal for 1/12th Infantry Battalion, 1st Brigade, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000. Your battalion has summary court-martial jurisdiction. Your battalion commander is LTC Nathan A. Clark, IN.

Situation 1

Today is 10 May 04. The SCM, MAJ Larry T. Welsh, HHC, 1/12th IN Bn, has provided you with the following information on the SCM of PFC Joe M. David, 999-00-1433, Co A, 1/12th IN Bn:

- a. At the preliminary proceedings held on 9 May 04, the SCM completed the "YES" column in Item 4 and in Items 5a through 5n, DD Form 2329.
- b. At the trial proceedings held on 10 May 04, the accused did not object to trial by SCM and was not represented by counsel.
- c. The accused was arraigned on the following charges and specifications. The accused's pleas and the findings were as follows:

CHARGES AND SPECIFICATIONS

Charge I: Article 86.

Specification 1: In that PFC Joe M. David, U.S. Army, did, on or about 2 Apr 04, without authority, absent himself from his unit, to wit: Co A, 12th IN Bn, located at Fort Atterbury, IN, and did remain so absent until on or about 30 Apr 04.

Specification 2: In that PFC Joe M. David, U.S. Army, did at Fort Atterbury, IN, at or about, 0730, 2 May 04, without authority, fail to go at the time prescribed to his appointed place of duty, to wit: morning work call formation in front of building 1000.

Charge II: Article 134.

Specification: In that PFC Joe M. David, U.S. Army, was, at Fort Atterbury, IN, on or about 27 Mar 04, drunk and disorderly which conduct was of a nature to bring discredit upon the armed forces.

PLEAS

Charge I: Guilty.

Specification 1: Guilty, except the figure "30," substituting therefore the figure "29," to the excepted figure, Not Guilty, to the substituted figure, Guilty.

Specification 2: Guilty.

Charge II: Not Guilty.

Specification: Not Guilty.

FINDINGS

Charge I: Guilty.

Specification 1: Guilty, except the figure "30," substituting therefore the figure "29," to the excepted figure, Not Guilty, to the substituted figure, Guilty.

Specification 2: Guilty.

Charge II: Guilty.

Specification: Guilty.

d. Sentence: Forfeiture of \$100.00 and restriction to the limits of Fort Atterbury, Indiana, for two months.

e. The SCM checked the "YES" block in Item 11 and signed Item 12 today.

f. The accused signed for his copy today.

Requirement

Prepare the appropriate portions of a DD Form 2329.

Situation 2

Today is 19 May 2004. Your battalion commander, LTC Clark, approved and ordered executed the sentence adjudged. He signed the action today. (See the MCM, Appendix 16, for forms for action.)

Requirement Prepare the appropriate portions of a DD Form 2329.

See Appendix A-9 for the answers to this exercise.

Prepare Certificate of Correction.

Conditions: You are a paralegal serving in the post-trial section of the Office of the Staff Judge Advocate. An error in the record of trial has been identified by the trial counsel and she has directed you to fix it.

Performance Steps:

1. Prepare the certificate of correction ensuring that the following information is included IAW the MCM and DA Pam 27-9:
 - a. Case citation data (US v. Accused's name, rank, SSN, branch of service).
 - b. Type of document (CERTIFICATE OF CORRECTION).
 - c. Body (to include the nature of the correction(s) and the reason(s) for the correction(s)).
 - d. Statement that "R.C.M. 1104(d) has been complied with."
 - e. Date and signature block of the person authenticating the certificate of correction.
 - f. Paragraph for the accused to receive a copy of the certificate of correction and the accused's signature block.
2. Ensure the certificate of correction is authenticated in the same manner as the record of trial or IAW the MCM R.C.M. 1104.
3. Serve a copy of the certificate of correction on the accused, and obtain the accused's signature on the receipt for that copy of the certificate of correction.
4. Ensure a copy of the certificate of correction is included in each copy of the record of trial.

Note: A certificate of correction may be used only to make the record of trial correspond to the actual proceedings. If the members were not sworn, for example, the error cannot be cured by a certificate of correction. If the members were sworn but the record did not so reflect, the record could be corrected. An example of a certificate of correction can be found in the MCM, Appendix 14.

References

1. MCM
2. DA PAM 27-9

Performance Measures:

Situation:

Prepare a certificate of correction IAW the MCM and DA PAM 27-9. Use the following information:

Today is 12 May 04. The name of the case is, US v. SPC Quimby Clunkledorf, U.S. Army, 543-99-7546, C Co, 3/12th IN Bn, Fort Atterbury, IN 46124-9000, US Army. The general court-martial was originally convened by CMCO #2, HQs, 54th ID (M), dtd 3 Nov 03, and amended by CMCO #7, HQs, 54th ID (M), dtd 13 Feb 04. The date the trial took place was 17 Mar 04. The reporter was sworn but a statement to that effect was not written into the record of trial. R.C.M. 1104 was complied with. A copy of the certificate of correction is being mailed to the accused by certified mail with return receipt. The military judge has retired and is not available to authenticate the correction. The trial counsel is CPT Tom Brady.

Requirement: Prepare a certificate of correction regarding the information above.

See Appendix A-10 for the answers to this exercise.

Prepare Report of Result of Trial.

Conditions: You are a paralegal and the case you have been providing support for just ended. The trial counsel has directed that you prepare a Report of Result of Trial on DA Form 4430, to reflect the proceedings.

Performance Steps:

1. Address the report to the convening authority. Include at least two elements of the convening authority's unit, geographical location, and zip code.
2. ITEM 1 - Enter the accused's rank, name(first, last, MI), SSN, and unit. Include at least two elements of the accused's unit, geographical location, and zip code.
3. ITEM 2 - Enter the following:
 - a. Type of court-martial (e.g., summary, special, general).
 - b. Date(s) of trial.
 - c. Geographical location of the trial.
 - d. Convening order number(s), issuing headquarters, and the date(s) of the CMCO(s) or, if trial is by SCM, amend form as appropriate and enter the date of detail of the SCM from the referral on Part V, DD Form 458.
4. ITEM 3 - Enter the following:
 - a. Charge numbers if any.
 - b. Article(s) of the UCMJ.
 - c. Specification numbers, if any.
 - d. Summary of offense(s).
 - e. Respective pleas and findings or other disposition.
5. ITEM 4 - Enter the sentence of the court-martial. If trial resulted in an acquittal, enter "NA."
6. ITEM 5 - Enter the date sentence was adjudged.
7. ITEM 6 - Enter the contents of pretrial agreement concerning sentence if any. If none so state.

8. ITEM 7 - Enter the number of days the accused was in pretrial (pre-sentence) confinement if any. If none, enter "NA."
9. ITEM 8 - Enter the number of days of judge ordered administrative credit for illegal pretrial (pre-sentence) confinement or restriction found tantamount to confinement if any. If none, enter "NA."
10. ITEM 9 - Enter the number of days of total pretrial (pre-sentence) confinement credit towards post-trial confinement if any. If none, enter "NA."
11. ITEM 10 - Enter the name(s) and SSN(s) of companion accused or co-accused, if any. If none, enter "NA."
12. ITEM 11 - Determine whether DNA processing is or is not required IAW with 10 U.S.C. 1565.
13. ITEM 12 - Determine whether this conviction requires registration as a sex offender IAW 42 U.S.C. 14071.

Note: A "qualifying military offense" is a felony or sexual offense determined by the Secretary of Defense to be a qualifying military offense for the purposes of 10 USC section 1565. AR 27-10, Chapter 24 covers the requirements to register sex offenders IAW 42 U.S.C. 14071.

14. Enter a list of copies-furnished (CF) addressees.
15. Enter the name (capitalized), rank, and branch of the trial counsel or the SCM.
16. Make sufficient copies for copies-furnished addressees after the form is signed by the trial counsel or SCM. Forward the original to the convening authority. See AR 27-10 for distribution.
17. Provide the guard/escort with a copy of DA Form 4430 if the accused was sentenced to confinement (not deferred).

Note: You should ensure that a copy of the DA Form 4430 is expeditiously provided to the finance and accounting office (FAO) in any case involving a reduction in rank or forfeiture of pay or fine. AR 27-10, paragraph 5-29 covers the Report of Result of Trial.

References

1. AR 27-10
2. MCM
3. DA Form 4430

Performance Measures:

General Situation

You are a paralegal in 1st Brigade and a general court-martial you are supporting has just finished. The trial counsel, CPT Thomas Brady, has directed you to prepare a Report of Result of Trial (DD Form 4430). The convening authority is the Commander, 54th IN DIV (M), Fort Atterbury, Indiana 46124-9000.

Situation

Today is 2 Nov 04. You just completed recording the General Court-Martial of PV2 Frank Muniz, 999-00-1405, Co A, 1/12th IN Bn, Fort Atterbury, Indiana 46124-9000. Use the following extract of pertinent data from the court-martial to prepare the form:

a. Convened by: CMCO No 1, HQ, 54th IN DIV (M), dated 13 Jun 04, as amended by CMCO No 2, HQ, 54th IN DIV (M), dated 31 Oct 04.

b. Offenses, pleas, and findings:

Charge I - Art 128: Aggravated assault inflicting a deep gash on 25 Sep 04.

Plea: Guilty.

Finding: Guilty.

Charge II - Art 134: Kidnapping on 19 Sep 04.

Plea: Guilty.

Finding: Guilty.

c. Sentence: To be confined for six years, total forfeiture of all pay and allowances, to be reduced to PV1(E1), and a bad-conduct discharge.

d. Contents of pretrial agreement pertaining to sentence: None.

e. The accused was placed in pretrial confinement on 25 Sep 04 and remained there until trial. The military judge granted 37 days of administrative credit toward the sentence of confinement.

f. There is no companion accused or co-accused.

g. DNA processing is required.

h. Sex offender registration is not required.

i. Copies of DA Form 4430 will be furnished to the following: Cdr, Co A, 1/12th IN Bn; Cdr, 1/12th IN Bn, Cdr, 54th IN DIV (M), SJA, 54th IN DIV (M), Confinement Facility (CF), Service Member, Defense Counsel, FAO, PSB.

Requirement Prepare a DA Form 4430.

See Appendix A-11 for the answers to this exercise.

Prepare a Report of Judicial and Disciplinary Activity in the Army.

Conditions: You are a brigade paralegal NCOIC and it is the first day of a new month. You have maintained statistics of the brigade's legal actions throughout the month and now it is time to prepare the end of month report.

Performance Steps:

1. The report will be prepared monthly and will include:
 - a. Total non-judicial punishments (formal and summarized) during the month.
 - b. Total SCMs reviewed under Article 64, UCMJ, during the month.
 - c. Processing time for SCMs and SPCMs (non-BCD).
 - d. Civilian felony convictions.
 - e. Total number of chapter 10s approved in all court-martial cases.
 - f. If a GCM jurisdiction is dissolved, unless the records are transferred to the office of the SJA of another GCM jurisdiction, the report will include data up to the date of dissolution.
2. Ensure RC jurisdictional data is submitted IAW AR 27-10.
3. Fill out DA Form 3169 Report of Judicial Disciplinary Activity in the Army IAW para. 15-5, AR 27-10.
4. Submit a negative (zero balance) report IAW AR 27-10 if applicable.
5. The report will be sent by the SJA or the SJA's authorized representative (with a copy to the MACOM SJA) to Clerk of Court (JALS-CC), U.S. Army Legal Services Agency, 901 North Stuart Street, Arlington, VA 22203, not later than 5 working days after the last day of the month, or if the GCM jurisdiction is dissolved, as soon as possible after the dissolution.

NOTE: Input of JAG-2 reports via JAGCnet is the optimal method for completing this task. Here is information from the website: All individuals involved in the JAG-2 reporting process may use this system. The online JAG-2 report system is designed to facilitate the reporting process by offering online creation, modification, submittal, and rollup of JAG-2 reports from the battalion level to the headquarters level. Also, all authorized users may view approved reports submitted by SJA offices and generate consolidated reports for various time periods for a single GCM jurisdiction or MACOM or for all jurisdictions.

Check with your division level criminal law office before registering with the online system.

References

AR 27-10

Performance Measures:

1. True or False: It is the responsibility of each GCM level Staff Judge Advocate to ensure the JAG-2 report is submitted for their jurisdiction. Provide a cite for you answer.
2. When and where is the JAG-2 report due? Provide a cite for your answer.
3. True or False: You may phone in negative reports to the Clerk of Court JALS-CC. Provide a cite for your answer.
4. Are negative reports for expanded reserve component units required? Provide a cite for your answer.
5. Where would you find a list of the geographical areas containing USAR units whose UCMJ numbers your installation is responsible for? Provide a cite for your answer.
6. True of False: When reporting reserve component numbers they are included with the GCMCA numbers, and next to that number in parentheses the reserve component numbers are shown alone. Provide a cite for your answer.

See Appendix A-12 for the answers to this exercise.

Prepare a Court-Martial Convening Order.

Conditions: You are a paralegal working in the criminal law division at the Office of the Staff Judge Advocate. You have been tasked with preparing a standing court-martial panel and therefore must prepare a court-martial convening order (CMCO).

Performance Steps:

1. Obtain a list of court members personally selected by the convening authority either creating a SPCM or GCM, or making amendments to the membership of an existing SPCM or GCM IAW the MCM and AR 27-10.

2. Ensure the convening authority selected enough qualified officers and, if applicable, qualified enlisted members to obtain a quorum IAW the MCM and AR 27-10.

NOTE: Quorum is the minimum members necessary in order for a court-martial to be legal. The minimum needed for a general court-martial is five and for a special court-martial it is three. See MCM R.C.M. 501(a).

3. Obtain the orders file, determine the next CMCO number, and update the orders IAW AR 27-10 and AR 600-8-105.

NOTE: The orders file contains a list of previous CMCOs your command has used. They are numbered sequentially and at the start of each calendar year the number starts over at one.

4. Enter the heading of the order IAW AR 27-10 paragraph 12-5.

5. Enter the notation, "Court-Martial Convening Order Number xx was the last of the series for 20xx" above the heading if it is the first order issued for the calendar year IAW AR 27-10.

6. Enter the order designation, date, and number IAW AR 27-10.

7. Enter the body of the order IAW the MCM and AR 27-10:

a. List court members by precedence of rank and date of rank IAW MCM.

b. Enter each member's rank (e.g., CPT), name, SSN, branch, and unit.

8. Enter the order authentication IAW AR 27-10 and AR 600-8-105.

9. Enter the distribution IAW AR 27-10 and AR 600-8-105.

10. Enter the signature block IAW AR 25-50.

11. Forward the CMCO to the official who will sign it, and distribute the signed CMCO IAW AR 27-10 and AR 600-8-105.

12. Prepare a corrected CMCO, if necessary IAW the MCM, AR 27-10 and AR 600-8-105.

NOTE: A convening order for a general or special court-martial shall designate the type of court-martial, detail the members, and may designate where the court-martial will meet. For more information about convening orders see the MCM R.C.M. 405.

References

1. MCM
2. AR 27-10
3. AR 600-8-105

Performance Measures:

General Situation

You are the paralegal for 1st Brigade, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000. Your brigade commander, COL Frank R. Myers, IN is a special court-martial convening authority.

Situation 1

Today is 13 Jan 04. The brigade commander has provided you with the following list of members for a SPCM and directed that you prepare a CMCO for his signature. The last CMCO published was CMCO No 86 dated 27 Dec 2003.

Members	Date of Rank
MAJ BOB L. CALL, 999-00-1411, IN, HHC, 1st Bde	15 Jun 03
CPT PAUL D. LOVE, 999-00-1415, IN, Co D, 2/12th IN Bn	16 Apr 01
1LT FRED ORFF, 999-00-1417, IN, Co A, 1/12th IN Bn	28 Sep 03
MAJ PAUL D. DUKE, 999-00-1410, QM, HHC, 3/12th IN Bn	20 Jan 03
CPT ROB D. DAVIES, 999-00-1420, AG, HHC, 1/12th IN Bn	25 Mar 01

Requirement

Using a blank sheet of 8 1/2-inch by 11-inch bond paper, prepare a CMCO to be published today. Prepare distribution IAW AR 27-10 and AR 600-8-105. (Your office is required to keep a reference set of CMCOs.) See Appendix A-13 for the answer to this exercise.

Situation 2

Today is 31 May 04. The brigade commander has informed you that CPT Rob D. Davies, 999-00-1420, AG, HHC, 1/12th IN Bn, is TDY. He wants to replace CPT Davies with CPT

Bob L. Stick, 999-00-1413, AR, Co C, 1/12th IN Bn, for the trial of SPC John M. Smith, 999-00-1542, Co A, 3/12th IN Bn, only. He directed that you prepare a CMCO for the signature of the Brigade adjutant, CPT Lula M. Bell, AG.

The last CMCO published was CMCO No 1, dated 13 Jan 04 (the order you are amending).

Requirement

Using a blank sheet of 8 1/2-inch by 11-inch bond paper, prepare a CMCO to be published today. Prepare distribution IAW AR 27-10 and AR 600-8-105. (Your office is required to keep a reference set of CMCOs.)

See Appendix A-14 for the answers to this exercise.

Prepare and Process a Subpoena.

Conditions: You are a brigade paralegal NCOIC working on a case that is getting ready to go trial. The trial counsel for your brigade has just handed you the witness list for the case and asked you to prepare the necessary subpoenas.

Performance Steps:

1. Coordinate with the trial counsel or SCM in preparing the subpoena. A subpoena may be issued by the summary court-martial or trial counsel of a special or general court-martial to secure witnesses or evidence for that court-martial. (R.C.M. 703(e)(2)(c)).

NOTE: Witnesses may be subpoenaed to appear, testify, and be examined before courts of inquiry. A court of inquiry and counsel for such court have the same powers with respect to obtaining the attendance of witnesses as a trial counsel for a court-martial (R.C.M. 703). A subpoena is not necessary if the witness appears voluntarily at no expense to the United States. Civilian employees of the Department of Defense may be directed by appropriate authorities to appear as witnesses in courts-martial as an incident of their employment. Appropriate travel orders may be issued for this purpose.

2. Fill out DD Form 453 (Subpoena) in accordance with the instructions on the form.

3. Prepare a letter of instruction IAW the MCM when the subpoena is to be mailed to the witness. Explain where the witness must sign to show receipt of the subpoena and instructions to return the signed copy in the prepaid envelope provided.

4. A subpoena must be sent certified first class mail, return receipt requested, and restricted delivery may be used for formal service of subpoenas (R.C.M. 703(e)(2)(D) and Discussion).

NOTE: The person who issued the subpoena should include with it a statement to the effect that the rights of the witness to fees and mileage will not be impaired by voluntary compliance with the request and that a voucher for fees and mileage will be delivered to the witness promptly on being discharged from attendance.

5. Ensure the subpoena will be served at least 24 hours before the time the witness will have to travel.

6. Ensure the witness receives, in addition to the subpoena, the following:

- a. Letter of instruction (if served by mail).
- b. Victim/Witness Information Packet (if not previously rendered).
- c. DD Form 453-1, Travel Order (if used).
- d. Postage-paid envelope bearing a return address (if served by mail).
- e. Advance travel allowances IAW the MCM and AR 37-106 along with a copy of the payment vouchers.

7. Maintain in the case file a copy of the subpoena signed by the witness or, if the witness does not sign, a copy of the subpoena bearing a certificate of service or PS Form 3811 signed by the witness.

NOTE: There are times when witnesses are required, but no authority to subpoena (compel) them to appear exists. (Witnesses cannot be subpoenaed to appear at Article 32 investigations nor can a subpoena be used to compel a civilian to travel outside the territorial limits of the United States.) Without subpoena power a witness can only be requested to appear. Witnesses requested to appear at courts-martial overseas are issued invitational travel orders by the Clerk of Court, U.S. Army Judiciary (see AR 27-10).

References

1. MCM, Appendix 7-1
2. AR 27-10
3. AR 37-106

Performance Measures:

General Situation

You are a paralegal working at the SJA Office, 54th IN Div (Mech), Fort Atterbury, IN 46124-9000.

Situation

Today is 17 Oct 04. The trial counsel, CPT Tom Brady, has directed you to prepare a DD Form 453 for a witness who is to appear in the GCM case of U.S. v. Martin. CPT Brady has provided you with the following information:

a. Witness: Mrs. Susan H. Doherty, she is a U.S. Citizen but not an employee of the U.S. Government.

b. Residence address: 254 Barracks Road, Waterville, IN 12345-0021

c. Convening order: CMCO No. 1, HQ, 54th IN Div (Mech), dated 13 Jan 04.

d. Date, time, and place of proceeding: 0730, 2 Nov 04, Bldg 3, Rm 7, Fort Atterbury, IN 46124-9000.

e. Witness is to bring with her the video tape depicting PFC John Martin entering the bank with a weapon that she recorded on the evening of 22 Sep 04.

The trial counsel will sign the subpoena today.

Requirement Prepare the appropriate items on the DD Form 453.

See Appendix A-15 for the answers to this exercise.

Prepare a Travel Order for a Witness.

Conditions: You are a brigade paralegal NCOIC working on a case that is getting ready to go trial. The trial counsel for your brigade has just handed you the witness list for the case and asked you to prepare the necessary travel orders.

Performance Steps:

1. Fill-out DD Form 453-1 IAW the MCM appendix 7-2.
2. Coordinate with your local installation finance, travel, and resource management office to get the proper modes of travel, witness fee amounts, fund cite, and the signature block of the authorizing official (sources of information also include 28 U.S.C. 1821 and the JFTR).
3. Ensure the trial counsel and certifying official both sign the order.

NOTE: The travel order number is maintained on a fiscal year basis. The first one of the year is number one and so on. For the fiscal year 2004 it would start out this way: 04-01, 04-02, and 04-03. See the MCM, Appendix 7 for an example of the Travel Order. For information about civilian witness overseas travel orders see AR 27-10 paragraph 18-22.

References

1. MCM
2. JFTR
3. 28 U.S.C. 1821

Performance Measures:

Situation

Traveling from: Waterville, Indiana

Traveling to: building 1, room 4, Fort Atterbury, IN

Travel is by privately owned vehicle

Witness has not been given a government request for transportation.

Not traveling to a high-cost area.

Per diem is \$45.00/day

Max per diem: \$50.00/day

Mileage rate: .375 cents/mile

Witness attendance fee: \$45.00/day

Travel order number: 04-28, dated 29 Sep 04 and issued by HQs, 54th ID (M)

Inquiries addressed to CPT Tom Brady, 445 Abby Ln, Fort Atterbury, IN 46124-9000

Accounting Citation is: 0000000432-998443-88222-0428

Approving Official: CPT Tom Brady, Trial Counsel

Certifying Official: Mr. Pen E. Pincher

Requirement: Prepare a DD Form 453-1. See Appendix A-16 for the answers to this exercise.

Prepare Vouchers for Payment of Witnesses.

Conditions: You are a brigade paralegal NCOIC supporting an ongoing case. The trial counsel for your brigade has instructed you to start preparing the payment vouchers for the witnesses involved in the case.

Performance Steps:

1. Coordinate with the trial counsel, SCM, or Article 32 investigating officer in preparing of SF 1157 and SF 1156.

2. Ensure the vouchers are prepared IAW AR 37-106.

NOTE: The timely advance or payment of travel allowances and/or fees is very important. Any person subpoenaed to testify at a court-martial is entitled to travel allowances and attendance Fees IAW the MCM and AR 37-106. Witnesses requested to appear at courts-martial overseas are issued invitational travel orders by the Clerk of Court, U.S. Army Judiciary, (see AR 27-10) and are entitled to travel allowances and attendance fees. Witnesses requested to appear at Article 32 investigations are issued invitational travel orders and are entitled to travel allowances (not attendance fees). Overseas, local nationals are obtained through cooperation of the host nation; they are paid fees and allowances IAW AR 37-106 or local laws, whichever is most beneficial to the witness.

PREPARATION OF SF FORM 1157

3. Enter "ADVANCE TRAVEL ALLOWANCES" centered above the title of the SF Form 1157, if the voucher is being prepared for the advance payment of a witness.

4. PART I, ITEM 1 - Enter the general information as follows:

- a. ITEMS a through c - Self-explanatory.
- b. ITEM d - The case name (e.g., U.S. v. Davis).
- c. ITEM e - The case number. If there is no case number, enter "NA."
- d. ITEM f - The geographical location of the trial or Article 32 investigation.

5. PART I, ITEM 2 - Enter the travel and attendance information as follows:

a. Enter "NA" after Item 2 and line out Items 2a through 2c if the voucher is for an advance payment.

b. Enter the appropriate dates of travel and attendance if the voucher is for final payment. If the travel or attendance was accomplished in 1 day, complete Item 2 as follows:

"From 13 Jan 04 To _____"

c. If the travel or attendance was accomplished in 2 or more consecutive days, complete Item 2 as follows:

"From 13 Jan 04 To 14 Jan 04"

6. PART I, ITEM 3 - Complete the "Certification" as follows:

a. Delete the second sentence of the certification.

b. Delete the words "attended in the case or matter indicated and" from the first sentence if the voucher is for an advance payment.

c. Enter the signature block of the certifying officer and the date in the space provided IAW AR 37-106.

7. PART II, COLUMN TITLES - If the voucher is for an advance payment, change the column titled "Amount Claimed" in Items 1 and 2 to "Amount Paid."

8. PART II, ITEM 1 - Complete the attendance fees information as follows:

a. Enter the correct rate, number of days, and total.

b. If the voucher is for a witness at an Article 32 investigation, enter "None" in the "Totals" column.

c. If the voucher is for an advance payment, the witness is only authorized 1 day's attendance fee.

9. PART II, ITEM 2 - If government transportation was provided, enter "None" in the "Totals" column for Item 2. If a privately owned vehicle was used, indicate the type of vehicle and enter the following information:

a. ITEM 2a - Enter the mileage rate IAW the JFTR, Volume 2, the round trip mileage from the witness' residence to the court location, and the computed amount claimed/paid.

b. ITEM 2b - Enter the mileage rate IAW the JFTR, Volume 2, total round trip mileage from the witness' hotel/motel to the court, and the computed amount claimed in Item 2b.

c. If the voucher is for an advance payment, enter "NA" in the "Amount Paid" column as mileage allowance to and from the hotel/motel and the court is not payable in advance.

d. Total mileage allowance in the "Totals" column.

10. PART II, ITEM 3 - Enter the amount of subsistence allowance IAW AR 37-106:

a. Enter the per diem or high rate geographical area rate and the meals and lodging rates IAW the JFTR, Volume 2, in the spaces provided.

b. Enter the number of days the witness was required to be away from his/her place of residence to attend in Item 3a and the number of days lodging required in Item 3b. Compute the amount claimed and totals columns.

c. Enter "None" in the "Totals" column if the voucher is for an advance payment as a witness is NOT paid an advance subsistence allowance.

11. PART II, ITEM 4 - Enter the amount of miscellaneous allowances claimed by the witness, such as common carrier expenses and parking fees, and itemize them in Part II, Item 8. Obtain a receipt from the witness for any expenses over \$25.00 and attach them to the voucher. Enter "None" in the "Totals" column if the voucher is for an advance payment as miscellaneous allowances are NOT authorized for an advance payment.

12. PART II, ITEM 5 - Compute the total and enter it in the space provided. If the voucher is for an advance payment, change the words "Total Amount Claimed" to "Total Amount Paid."

13. PART II, ITEM 6 - Enter the amount of any advance payment and the voucher number by which the advance was accomplished. Delete the line if the voucher is for an advance payment.

14. PART II, ITEM 7 - Subtract the amount in Item 6 from the amount in Item 5 and enter the difference in Item 7. If the voucher is for an advance payment, change the words "Net Amount Claimed by Witness" to "Net Amount Paid to Witness" and enter the amount from Item 6.

15. PART II, ITEM 8 - Enter the Itemized list of miscellaneous expense claimed (Item 4) in the space provided. Enter "NA" if the voucher is for an advance payment.

16. PART II, ITEM 9 - Complete the certification by deleting inapplicable words, and ensure the witness has signed and dated the form. If the voucher is for an advance payment, enter "ADVANCE TRAVEL ALLOWANCES" in lieu of the witness's signature.

17. Attach 3 copies of SF 1157a IAW AR 37-106.

PREPARATION OF SF 1156

18. Enter "DEPARTMENT OF THE ARMY" on the line following "U.S."

19. Enter the name of the court or board on the line indicated. (e.g., "Special Court-Martial" or "Article 32 Investigation").

20. Enter the geographical location on the "Location" line.
21. Enter the date(s) of the court or investigation. If the voucher is for an advance payment, delete the words "from" and "to", and enter the scheduled date of trial or investigation.
22. Enter the title of the case (e.g., U.S. v. Barth).
23. Enter the number of payees (witnesses) and sheets (SF 1157) attached. Attach an SF 1157 for each witness.
24. Enter the total amount of all attached SFs 1157 in the space provided.
25. Enter the signature block of the certifying officer on the "Title" line and ensure the form is dated and signed.
26. Enter the correct accounting classification.
27. Attach 3 copies of SF 1156a IAW AR 37-106.
28. Attach a copy of the subpoena, invitational travel order, or any other document requiring or requesting the appearance of the witness, along with all receipts provided by the witness to the SF 1157. Attach the SF 1157 for each witness and a copy of the CMCO(s) to the SF 1156 and forward to finance.
29. Coordinate with the victim/witness liaison and the finance office to ensure prompt payment of the witness (i.e., before the witness departs the trial location).

References

1. MCM
2. AR 37-106
3. AR 27-10
4. JFTR, Vol 2
5. AR 55-60
6. DODFMR
7. AR 310-50
8. AR 25-50

Performance Measures:

General Situation

You are a paralegal working at the SJA Office, 54th IN Div (Mech), Fort Atterbury, IN 46124-9000.

Situation

Today is 7 Feb 04. The trial counsel, CPT Tom Brady, has directed you to prepare the necessary vouchers for an advance payment of a witness who is to appear in the GCM case of U.S. v. Manning. CPT Brady has provided you with the following information:

- a. Witness: Mr. Ty Law, (U.S. Citizen, not an employee of the U.S. Government).
- b. Residence address: 701 Patriots Way, Worcester, MA 04225-8888.
- c. Convening order: CMCO No. 1, HQ, 54th IN Div (Mech), dated 13 Jan 04.
- d. Date, time, and place of proceeding: 0730, 12 Feb 04, Bldg 3, Rm 7, Fort Atterbury, IN 46124-9000.
- e. Witness is to bring with him the bank records for account number 288521008 for the months of June and July 1998.
- f. Travel and attendance information:
 1. One-way mileage from above residence: 140 miles.
 2. Mileage rate per mile (for POV travel): \$0.24
 3. Attendance fee: \$30.00 per day.
 4. Mr. Law did not receive any other cash advance or transportation request.
 5. Mr. Law is the only payee.
6. Fund citation: 2102020 76-0005 P200000-2110 S09419 (202890.N00013) JAG 69.

The trial counsel will sign the vouchers today.

Requirement

Prepare the appropriate items on the SF Form 1156 and SF Form 1157.

Situation 2

Today is 13 Feb 04. CPT Brady has directed that you prepare the necessary vouchers for the final payment of the witness in Situation 1 and has provided you with the following information:

Travel and attendance information is the same as in Situation 1, except the following:

- a. Date of travel from the residence to case location: 12 Feb 04.
- b. Date of travel from case location to residence: 13 Feb 04.
- c. Dates of attendance: From 12 to 13 Feb 04.
- d. Mileage from court to the hotel and return: 10 miles.
- e. Per diem rate: \$60.00 per day (\$35.00 lodging and \$25.00 meals and incidentals).
- f. Cost of lodging (receipt furnished): \$26.00.
- g. Mr. Law claimed \$5.00 for a parking fee at the Outside Inn, Indianapolis, IN.
- h. Mr. Law was paid a cash advance (Situation 1) by voucher number 9500038.
- i. Mr. Law is the only payee.

The trial counsel will sign the vouchers today.

Requirement

Prepare the appropriate items on the SF Form 1156 and SF Form 1157.

See Appendix A-17 for the answers to this exercise.

Draft Staff Judge Advocate's Pre-trial Advice.

Conditions: You are a paralegal working in the Office of the Staff Judge Advocate. A case has been preferred with a view to trial by general court-martial. The Article 32 hearing is complete. You must prepare the SJA's pre-trial advice memorandum.

Performance Steps:

1. The SJA's pretrial advice is accomplished prior to referral.
2. The memorandum, pursuant to R.C.M. 406, contains at a minimum the following guidance from the SJA.
 - a. the charges and specifications allege an offense under the code.
 - b. a conclusion with respect to whether the allegation of each offense is warranted by the evidence indicated in the report of investigation (if there is such a report).
 - c. a conclusion with respect to whether a court-martial would have jurisdiction over the accused and the offense(s).
 - d. a recommendation of the action to be taken by the convening authority.
3. The pretrial advice memorandum is personally signed by the SJA (R.C.M. 406 discussion).
4. Format of the pretrial advice memorandum will be IAW AR 25-50, Preparing and Managing Correspondence.
5. A copy of the SJA's pretrial advice is served to defense counsel if the case is referred to court-martial.

NOTE: In addition, the pretrial advice should include when appropriate: a brief summary of the evidence; discussion of significant aggravating, extenuating, or mitigating factors; and any previous recommendations, by commanders or others who have forwarded the charges, for disposition of the case. However, there is no legal requirement to include such information and failure to do so is not error. At a special court-martial, a sentence that includes confinement in excess of 6 months; forfeitures for 6 months; or a bad-conduct discharge, are not authorized unless pretrial advice has been given. See AR 27-10 paragraph 5-27(b).

References

1. MCM
2. AR 27-10

Performance Measures:

Situation

The accused is PV2 Laverne S. Defazio, 443-66-2314, HHC, 54th IN Div (M). The SJA has reviewed the case and concludes that the charge and specifications allege offenses under the UCMJ, that there is sufficient evidence to substantiate the charges and that the CG, 54th IN Div (M), Fort Atterbury, IN 46124-9000, has jurisdiction in this case and over the charge and specifications. The SJA recommends that the CG refer this case to a general court-martial convened by CMCO # 14, dated 11 April 2004. Your office symbol is AMMP-JA. The SJA is COL William Belichick and the CG is MG Robert Crafts.

Requirement: Draft a memo with the SJA's advice.

See Appendix A-18 for the answers to this exercise.

Prepare and Process a Findings Worksheet.

Conditions: You are a paralegal and are putting the final touches on preparing a case for trial by court-martial. Your trial counsel has asked you to prepare the findings worksheet.

Performance Steps:

1. Prepare a findings worksheet IAW with the MCM Appendix 10 and DA PAM 27-9 Appendix B.

2. The president of the panel (if applicable) should sign the findings worksheet.

NOTE: The president of a panel is the highest ranking member.

3. It must be tailored for each case to ensure that the worksheet allows the court members to reach findings on all theories of the case which have been raised by the evidence.

4. Counsel for both sides should consent to the findings worksheet on the record before it is given to the court members. This is especially important in cases involving lesser-included offenses.

5. The findings worksheet should be made as simple as possible.

NOTE: The military judge should be provided sufficient time to review the findings worksheet prior to deliberation by the members. Appendix B in DA PAM 27-9 provides examples of what a findings worksheet could look like.

References

1. MCM
2. DA PAM 27-9

Performance Measures:

Situation

Today is 17 Oct 04. Your trial counsel is doing last minute preparations for a Special Court-Martial that takes place tomorrow and he has asked you to prepare a findings worksheet. Use the following information to create a findings worksheet.

The accused is SPC Michael Sprint, 467-00-5219, Co A, 1/12th IN Bn, 54th IN DIV (M), Fort Atterbury, IN 46124-9000.

SPC Sprint was charged with the following offenses:

Charge I Article 86.

Specification 1: In that SPC Michael Sprint, U.S. Army, did, on or about 16 Jun 04, without authority, absent himself from his unit, to wit: Co A, 1/12th IN Bn, and did remain so absent until on or about 14 Jul 04.

Specification 2: In that SPC Michael Sprint, U.S. Army, did on or about 16 Jul 04, without authority, absent himself from his unit, to wit: Co A, 1/12th IN Bn, and did remain so absent until on or about 19 Sep 04.

Charge II Article 91.

Specification 1: In that SPC Michael Sprint, U.S. Army, at Fort Atterbury, IN, on or about 20 Sep 04, was disrespectful in language toward MSG John Jackman, a noncommissioned officer, then known by the said SPC Michael Sprint, U.S. Army, to be a noncommissioned officer, who was then in the execution of his office, by saying to him, "why don't you go bother someone else you big goof," or words to that effect.

Specification 2: In that SPC Michael Sprint, U.S. Army, at Fort Atterbury, IN, on or about 22 Sep 04, was disrespectful in language toward 1SG Andre Snapper, a noncommissioned officer, then known by the said SPC Michael Sprint, U.S. Army, to be a noncommissioned officer, who was then in the execution of his office by saying to him, "I ain't doing a damn thing you tell me First Sergeant," or words to that effect.

Charge III Article 112a.

Specification: In that SPC Michael Sprint, U.S. Army, did, at or near Fort Atterbury, IN, on or between 20 Sep 04 and 30 Sep 04, wrongfully use a controlled substance, to wit: cocaine.

The trial counsel, defense counsel, and military judge have agreed no lesser included offenses will be included on the findings worksheet.

Requirement

Prepare a findings worksheet.

See Appendix A-19 for the answers to this exercise.

Prepare and Process a Sentence Worksheet.

Conditions: You are a paralegal and are putting the final touches on preparing a case for trial by court-martial. Your trial counsel has asked you to prepare the sentence worksheet.

Performance Steps:

1. Prepare a sentence worksheet IAW the MCM Appendix 11 and DA PAM 27-9 Appendix C.
2. The sentence worksheet covers only those authorized punishments.
3. The sentence worksheet must be carefully reviewed by the military judge before it is given to the court members. The samples should be modified to insure that the court is not given the opportunity to adjudge an unlawful sentence or one that is inappropriate.

NOTE: Counsel for both sides should consent to the sentence worksheet on the record prior to it being given to the court members. In a capital case, the court must ensure that the aggravating factors listed on the sentence worksheet are the same factors of which the accused was given notice. When the court members return from deliberations, the military judge must review the sentence worksheet to ensure that the sentence is lawful and in proper form. The judge must have the President of the panel correct any mistakes or omissions prior to announcement of the sentence.

References

1. MCM
2. DA PAM 27-9

Performance Measures:

Situation

Today is 17 Oct 04. Your trial counsel is doing last minute preparations for a Special Court-Martial that takes place tomorrow and he has asked you to prepare a sentence worksheet. The accused is SPC Michael Sprint, 467-00-5219, Co A, 1/12th IN Bn, 54th IN DIV (M), Fort Atterbury, IN 46124-9000. The court has been authorized to adjudge a bad-conduct discharge.

SPC Sprint was charged with the following offenses:

Charge I Article 86.

Specification 1: In that SPC Michael Sprint, U.S. Army, did, on or about 16 Jun 04, without authority, absent himself from his unit, to wit: Co A, 1/12th IN Bn, and did remain so absent until on or about 14 Jul 04.

Specification 2: In that SPC Michael Sprint, U.S. Army, did on or about 16 Jul 04, without authority, absent himself from his unit, to wit: Co A, 1/12th IN Bn, and did remain so absent until on or about 19 Sep 04.

Charge II Article 91.

Specification 1: In that SPC Michael Sprint, U.S. Army, at Fort Atterbury, IN, on or about 20 Sep 04, was disrespectful in language toward MSG John Jackman, a noncommissioned officer, then known by the said SPC Michael Sprint, U.S. Army, to be a noncommissioned officer, who was then in the execution of his office, by saying to him, "why don't you go bother someone else you big goof," or words to that effect.

Specification 2: In that SPC Michael Sprint, U.S. Army, at Fort Atterbury, IN, on or about 22 Sep 04, was disrespectful in language toward 1SG Andre Snapper, a noncommissioned officer, then known by the said SPC Michael Sprint, U.S. Army, to be a noncommissioned officer, who was then in the execution of his office by saying to him, "I ain't doing a damn thing you tell me First Sergeant," or words to that effect.

Charge III Article 112a.

Specification: In that SPC Michael Sprint, U.S. Army, did, at or near Fort Atterbury, IN, on or between 20 Sep 04 and 30 Sep 04, wrongfully use a controlled substance, to wit: cocaine.

Requirement - Prepare a Sentence Worksheet.

See Appendix A-20 for the answers to this exercise.

Draft Pretrial Agreement.

Conditions: You are a paralegal serving in the Trial Defense office. One of the attorneys you support has asked you to draft a pretrial agreement for an upcoming case.

Performance Steps:

1. Determine if the accused has agreed to plead guilty or entered into a confessional stipulation as to one or more charges and specifications.
2. Determine if the accused is pleading guilty of their own free will.
3. Ascertain from the accused and/or defense counsel (if represented) what concessions are expected to be made from the convening authority.
4. If the case requires an Article 32(b) investigation determine if the accused is willing to waive that right.
5. Ensure the accused is not deprived of the following rights (MCM, R.C.M. 705 (c)(1)(b)):
 - a. The right to counsel.
 - b. The right to due process.
 - c. The ability to challenge the jurisdiction of the court.
 - d. The right to a speedy trial.
 - e. The right to complete the sentencing process.
 - f. The ability exercise post-trial and appellate rights.
6. Determine if the accused is willing to be tried by military judge alone as opposed to a trial by members.
7. Determine what punishment the accused is willing to accept in exchange for a plea of guilty (if any).

NOTE: R.C.M. 705 in the MCM covers pretrial agreements.

References

MCM

Performance Measures:

Situation

CPT Timothy Smith has preferred charges against a member of his command. The charges were preferred on 15 Oct 04.

SSG DOOLITTLE P. SLACKER, 554-00-2543, U.S. ARMY, HHC, 1/12TH IN BN, 54th IN DIV (M), FORT ATTERBURY, IN 46124-9000, has been charged with the following offenses:

Charge I: Violation of the UCMJ, Article 90.

Specification 1: In that SSG Doolittle P. Slacker, U.S. Army, did, at Fort Atterbury, Indiana, on or about 13 October 2004, strike MAJ Alfus Moynihan, his superior commissioned officer, then known by the said SSG Doolittle P. Slacker, to be his superior commissioned officer, who was then in the execution of his office, in the face with his hand.

Specification 2: In that SSG Doolittle P. Slacker, U.S. Army, having received a lawful command from MAJ Alfus Moynihan, his superior commissioned officer, then known by the said SSG Doolittle P. Slacker, to be his superior commissioned officer, to have no contact with Mrs. Teresa Barone, or words to that effect, did, at Fort Atterbury, Indiana, on or about 13 October 2004, willfully disobey the same.

Charge II: Violation of the UCMJ, Article 112.

Specification: In that SSG Doolittle P. Slacker, U.S. Army, was, at building 1, Fort Atterbury, Indiana, on or about 10 October 2004, found drunk while on duty as charge of quarters.

Charge III: Violation of the UCMJ, Article 128.

Specification 1: In that SSG Doolittle P. Slacker, U.S. Army, did, at Fort Atterbury, Indiana, on or about 12 October 2004, unlawfully strike Mrs. Teresa Barone on the top of the head with a shoe.

Specification 2: In that SSG Doolittle P. Slacker, U.S. Army, did, at Fort Atterbury, Indiana, on or about 12 October 2004, unlawfully strike Mrs. Teresa Barone on the leg with a plastic baseball bat.

Specification 3: In that SSG Doolittle P. Slacker, U.S. Army, did, at Fort Atterbury, Indiana, on or about 12 October 2004, unlawfully strike Mrs. Teresa Barone in the stomach with his fist.

Charge IV: Violation of the UCMJ, Article 134.

Specification 1: In that SSG Doolittle P. Slacker, U.S. Army, did at Fort Atterbury, Indiana, on or about 10 October 2004, while standing in the window at his on-post quarters located at 1134 Inchon Dr., Fort Atterbury, IN 46124-9000, willfully and wrongfully expose in an indecent manner to public view his buttocks.

Specification 2: In that SSG Doolittle P. Slacker, U.S. Army, did, at Fort Atterbury, Indiana, on or about 14 October 2004, while accompanying his organization on a march, wrongfully straggle.

Specification 3: In that SSG Doolittle P. Slacker, U.S. Army, did, at Fort Atterbury, Indiana on or about 14 October 2004, wrongfully communicate certain language, to wit: "I put an improvised explosive device at the PX and I'm going to blow the place up," which language constituted a threat to harm a person or property by means of an explosive.

Specification 4: In that SSG Doolittle P. Slacker, U.S. Army, did, at Fort Atterbury, Indiana, on or about 12 October 2004, unlawfully enter the house of 1SG John Barone.

The company and battalion commanders have recommended trial by General Court-Martial. The brigade commander has ordered that an Article 32(b) hearing be conducted. SSG Slacker has been meeting with his assigned defense counsel, CPT Dustin T. Breeze USATDS, and has decided to submit a pretrial agreement to the convening authority. SSG Slacker has decided to plead guilty to the following offenses:

Charge I: Guilty.

Specification 1: Guilty.

Specification 2: Guilty.

Charge II: Not guilty.

Specification: Not guilty.

Charge III: Guilty

Specification 1: Guilty.

Specification 2: Guilty.

Specification 3: Guilty, except the words "in the stomach" substituting therefore with the words "in the shoulder." Of the excepted words not guilty, of the substituted words, guilty.

Charge IV: Guilty

Specification 1: Guilty.

Specification 2: Guilty.

Specification 3: Guilty.

Specification 4: Not guilty.

SSG Slacker, after consulting with his attorney, has agreed to waive the Article 32 hearing and agreed to be tried by military judge alone as part of a pretrial agreement. In return for his plea of guilty, SSG Slacker wants the convening authority to disapprove any confinement in excess of seven months. Additionally, SSG Slacker wants the convening authority to refer this case to a Special Court-Martial. SSG Slacker also is willing to enter into a stipulation of fact concerning the charges and specifications that he has agreed to plead guilty to.

The convening authority is the commander of the 54th IN Div (M), Major General Allen P. Strawn.

Requirement: Draft a pretrial agreement.

See Appendix A-21 for the answers to this exercise.

Draft a Stipulation of Expected Testimony.

Conditions: You are a paralegal serving in the Trial Defense office. One of the attorneys you support has asked you to draft a stipulation of expected testimony for an upcoming case.

Performance Steps:

1. Ensure the accused understands the purpose of a stipulation of expected testimony.
2. Determine from the accused and/or defense counsel exactly what information is being provided in the stipulation of fact.
3. If the accused is providing the stipulation of fact in response to an offer to plead guilty, ensure that the information provided matches the necessary elements of the charge(s) and specification(s) for which the accused is pleading guilty.
4. Include a statement to effect of “the accused was at all times during the commission of the above listed offenses on active duty with the U.S. Army.”

NOTE: The parties may make an oral or written stipulation to any fact, the contents of a document, or the expected testimony of a witness. Although the decision to stipulate should ordinarily be left to the parties, the military judge should not accept a stipulation if there is any doubt of the accused's or any other party's understanding of the nature and effect of the stipulation. Stipulations are covered by R.C.M. 811 in the MCM.

References

MCM

Performance Measures:

Situation

The situation used for this exercise is a continuation of the situation used for the exercise “Draft Pretrial Agreement.”

Use the following information to draft a Stipulation of Expected Testimony.

1. MAJ Moynihan gave SSG Slacker a “no contact order” in regards to Mrs. Barone on 2 Oct 04. On 13 Oct 04, MAJ Moynihan witnessed SSG Slacker and Mrs. Barone having lunch in the PX. MAJ Moynihan confronted SSG Slacker and ordered him to report to battalion headquarters immediately. In a fit of rage, SSG Slacker stood up and threw a wicked right cross hitting MAJ Moynihan in the face with a closed fist.

2. On the evening of 10 Oct 04, CSM Wood drove to the battalion barracks to make sure things were safe and sound. Upon entering the building CSM Wood approached

SSG Slacker who was on CQ duty at the time and immediately notice a strong odor of alcohol on SSG Slacker's breath. CSM Wood took SSG Slacker to the MP station and had them give him a breathalyzer test in which SSG Slacker blew .051%.

3. On the evening of 12 Oct 04, SSG Slacker and Mrs. Barone were drinking Jack Daniels at her on-post residence. At some point SSG Slacker and Mrs. Barone began arguing and Mrs. Barone called SSG Slacker a worthless no good man. SSG Slacker got upset, took off his running style sports shoe and smacked Mrs. Barone on top of her head with it. Mrs. Barone began yelling loudly at SSG Slacker and enraged him even further. SSG Slacker picked up a child's plastic style baseball bat and hit Mrs. Barone in the front portion of her left leg with it. The situation was clearly out of control. Mrs. Barone yelled obscenities at SSG Slacker and Mrs. Barone claims SSG Slacker punched her in the stomach with a closed fist.

4. SSG Slacker began drinking early in the morning on 10 Oct 04. Mrs. Jessica Eaton-Hargroves who is the next door neighbor of SSG Slacker and also a good friend to SSG Slacker's soon to be ex-wife, was walking by in front of SSG Slacker's quarters. SSG Slacker looked directly at Mrs. Eaton-Hargroves and when they made eye contact she gave him a cold stare and he knew she didn't like him. SSG Slacker turned his back to the window and dropped his pants and his underwear exposing his buttocks to Mrs. Eaton-Hargroves.

5. On 14 Oct 04, HHC, 1/12th IN Bn, conducted a 12 mile forced road march. SSG Slacker had been very upset with his chain of command for the myriad of disciplinary problems he was having. SSG Slacker realized his chances for advancement in the Army were already slim so he decided he would try and upset the chain of command by falling out of the road march. He was almost 700 meters behind the straggle control NCO when he refused to put any effort into catching up with the unit. His attitude was terrible and he obviously didn't care about anything.

6. After returning from the road march SSG Slacker went to get some lunch at the PX. When he went into the PX he saw Mrs. Barone and her husband (1SG Barone) having lunch. SSG Slacker became very upset and jealous. SSG Slacker went outside of the PX and used his cell phone to call the MP station. SSG Slacker told the MPs that he had placed an improvised explosive device in the PX and that he was going to blow the place up. The MPs having caller ID on their phones were able to trace the call to SSG Slacker. Additionally, when 1SG and Mrs. Barone came outside of the PX they saw SSG Slacker speeding out of the PX parking lot.

7. On the evening of 12 Oct 04, SSG Slacker had gone to Mrs. Barone's house to drink some Jack Daniels with her. When he got there nobody was home so he let himself in the back door. About an hour later Mrs. Barone came home and the two of them proceeded to get drunk.

Requirement: Draft a Stipulation of Fact using this scenario and the one listed in the Draft Pretrial Agreement exercise. See Appendix A-22 for the answers to this exercise.

Prepare Request for Chapter 10 Discharge in Lieu of Trial by Court-Martial.

Conditions: You are a paralegal serving in the Trial Defense office. One of the attorneys you support has asked you to prepare a Chapter 10 request.

Performance Steps:

1. The soldier submitting the request must have charges preferred or referred against them.
2. The charges that the soldier has had preferred/referred against them must have a punishment authorized to include a bad-conduct or dishonorable discharge.
3. The soldier's written request will include an acknowledgment that he/she understands the elements of the offense/s charged and is guilty of the charge/s or of a lesser included offense/s therein contained which also authorizes the imposition of a punitive discharge.
4. The consulting counsel will sign as a witness, indicating that he/she is a commissioned officer of The Judge Advocate General's Corps, unless the request is signed by a civilian counsel representing the soldier.

NOTE: If the accused refused to consult with counsel, ensure a statement to that effect is included IAW AR 635-200, Chapter 10. Submitting a Chapter 10 request does not stop the proceedings of the case.

5. The discharge request must be reviewed by the Office of the Staff Judge advocate prior to approval by the separation authority.
6. Commanders in the soldier's chain of command will recommend either approval or disapproval of the request for discharge and state the reasons for the recommendation. If approval is recommended, the type discharge to be issued will be recommended also.
7. The following data will accompany the request for discharge:
 - a. A copy of the court-martial Charge Sheet (DD Form 458).
 - b. Report of medical examination and mental status evaluation, if conducted.
 - c. A complete copy of all reports of investigation.
 - d. Any statement, documents, or other matter considered by the commanding officer in making his/her recommendation, including any information presented for consideration by the soldier or consulting counsel.
 - e. A statement of any reasonable ground for belief that the soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

f. When a soldier is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts that relate to the conduct upon which the request is predicated, will be forwarded.

8. A medical examination is not required but may be requested by the soldier under AR 40–501, chapter 8.

NOTE: A request for discharge in lieu of trial by court-martial will be submitted in the format shown in figure 10–1, AR 635-200.

References

1. AR 635-200
2. AR 27-10

Performance Measures:

Situation

Today is 27 Sep 04. SPC Lisa B. Buzzworthy, 999-01-8432, HHC, 3/12th IN Bn, 1st Brigade, 54th Infantry Division (Mech), Fort Atterbury, IN 46124-9000, wants to submit a request for discharge in lieu of trial by court-martial. SPC Buzzworthy is being charged with wrongful distribution of a controlled substance (cocaine) on 21 Jun 04, and AWOL from 19 Jun 04 to 26 Jul 04. Charges have been preferred. SPC Buzzworthy refuses to consult with an attorney and she is not submitting any statements.

Requirement

Prepare a chapter 10 request.

See Appendix A-23 for the answers to this exercise.

Prepare and Process Involuntary Excess Leave Form.

Conditions: You are a paralegal working in the post-trial section at the Office of the Staff Judge Advocate. A soldier has been given a bad-conduct discharge at a court-martial but received no confinement. The unit doesn't want him around causing more problems so the trial counsel has asked you to prepare an involuntary excess leave form.

Performance Steps:

1. The General Court-Martial Convening Authority may direct involuntary excess leave if:
 - a. The soldier is sentenced by court-martial to dismissal or a punitive discharge.
 - b. Discharge or dismissal is unsuspended.
 - c. Soldier is awaiting completion of appellate review.
 - d. Confinement has been served, deferred, or suspended prior to the beginning of leave, when included as part of the approved sentence.
 - e. Approval of punitive discharge is under Article 60, UCMJ, by the GCM authority.
2. Cause the soldier to be notified in writing of the GCMCA's intent to consider him/her for involuntary excess leave.
3. Give the soldier reasonable time (normally 72 hours) in which to present matters supporting a request to continue on duty (if desired).
4. Excess leave begins the day the sentence is approved by the GCMCA or any day after the day sentence is approved. Excess leave ends upon final judgment when the sentence is ordered executed, or other appropriate action is promulgated, or at any earlier time as authorized by the GCMCA.

NOTE: The GCMCA should consider the soldier's service record, the offenses for which convicted and sentence adjudged, the special court-martial convening authority's recommendation, and the recommendation of the Staff Judge Advocate. The GCMCA should also consider whether the soldier has demonstrated that he or she can be productive or beneficial to the Army by continuing on active duty pending appellate review and whether there will be hardship or other adverse consequences if the soldier is required to take excess leave involuntarily.

5. Prepare DA Form 31 IAW AR 600-8-10.
6. Ensure the DA Form 31 has large red letters on it stating the soldier is ineligible for space available transportation. "SPACE AVAILABLE TRAVEL RESTRICTION IMPOSED."

7. Ensure that the Clerk of Court (JALS-CC) is furnished a copy of the excess leave form (DA Form 31).

NOTE: Providing the Clerk of Court with a copy of the leave form will allow them to contact the soldier upon completion of appellate review.

References

1. AR 600-8-10
2. AR 27-10

Performance Measures:

Situation:

Today is 26 Nov 04.

PV1 DAVIS, Carlos, 443-99-6431, HHC, 54th IN Div (M), Fort Atterbury, IN 46124-9000, was convicted by a General Court-Martial. His sentence included a bad-conduct discharge, forfeiture of \$250.00 pay per month for two months, and a written reprimand. The GCMCA, Major General Christy Piland, in consultation with the chain of command and the Staff Judge Advocate, has decided PV1 Davis should be placed on involuntary excess leave. PV1 Davis has been given 72 hours notice and has decided not to submit matters or to try and stay on duty. PV1 Davis will be returning home to Tennessee to stay with his parents. The local address there is 442 County Road 6, Sticksville, TN 32144-6788 and the phone number is (100)993-8321. The phone number to the orderly room at PV1 Davis' unit is (774)324-0022. The GCMCA will be taking action on the sentence today.

Requirement: Prepare and process a DA Form 31 for involuntary excess leave for PV1 Davis.

See Appendix A-24 for the answers to this exercise.

Process Record of Trial.

Conditions: You are a paralegal working in the post-trial section at the Office of the Staff Judge Advocate. The record of trial (ROT) has been authenticated.

Performance Steps:

1. Receive authenticated record from trial counsel or military judge. Ensure defense counsel has signed authentication. Ensure "Receipt for Copy of Record" or "Certificate in Lieu of Receipt" is completed and attached IAW R.C.M. 1104, MCM.

2. Determine whether the accused has submitted written matters to the convening authority under R.C.M. 1105 within appropriate time limits.

NOTE: For general and special courts-martial, submissions are made within 10 days after service of the authenticated record upon the accused, but may be extended for up to 20 days by the convening authority. The right to submit matters under R.C.M. 1105 may be waived in writing by the accused.

3. Ensure all copies of the ROT are legible and complete.

4. Ensure the ROT is assembled IAW the instructions listed on the inside back cover of DD Form 490 or DD Form 491 if used.

5. Ensure original ROT is submitted to the convening authority for initial review. In general and special (BCD) courts-martial, a post-trial recommendation IAW R.C.M. 1106 is required which is:

a. Provided to the defense counsel for a response, to be submitted within five days, and attached to the ROT prior to action on the record.

b. Provided to the GCMCA after defense response, if any, accompanied by a proposed action for the convening authority's signature (based upon the recommendation).

6. Receive notification of the convening authority's decision (in cases not requiring a post-trial recommendation) and prepare the action of the convening authority for signature, ensuring that the time limits indicated above have expired or have been waived by the accused (either by expressed waiver or receipt of submissions under R.C.M. 1105 or R.C.M. 1106).

7. Receive signed action of the convening authority. Ensure that the date is immediately stamped on the action if not dated by the convening authority at time of signature.

NOTE: If the trial resulted in acquittal or termination prior to findings, an action is not required.

8. Prepare the initial promulgating order for authentication and subsequent attachment to the ROT.

9. Prepare the chronology sheet page of DD Form 490 or DD Form 491.
10. Prepare Items 2 through 5 of DD Form 494, and ensure the trial counsel has completed the "TC" column of the DD Form 494, and has signed and dated Item 56.
11. Coordinate with the convening authority or representative to ensure the "SPCMCA" or "GCM" column of DD Form 494 is completed as required.
12. Ensure all exhibits and allied documents are present; obtain missing documents.
13. Ensure companion cases, if any, are identified IAW AR 27-10.
14. Ensure ROT is assembled IAW instructions on the back cover of DD Form 490 or DD Form 491 and that the errata sheet, post-trial recommendation (if required), ACTION page, promulgating order (in appropriate number of copies), R.C.M. 1105, R.C.M. 1106, appellate rights advisement and appellate representation, (executed by the accused and assembled as appellate exhibits), are inserted into the record in the proper place.
15. Ensure original ROT is forwarded to the GCM authority for processing IAW R.C.M. 1112 and Article 64, UCMJ.

NOTE: In special (BCD) and GCM, all copies of the ROT, excluding that previously provided to the accused, are forwarded to the GCM authority IAW R.C.M. 1111.

16. Place the convening authority's copy of the ROT in an ACTIVE file IAW AR 25-400-2 (if convened by SPCMCA pending receipt of court-martial order, DD Form 491, or written review reflecting results of the supervisory/appellate review conducted under R.C.M. 1112, IAW AR 27-10 and the MCM.)
17. Ensure sufficient number of copies of the ROT have been prepared IAW AR 27-10, including "Clemency Copy", if required.
18. Place the copy of the legal review returned from GCM authority in the convening authority's copy of the ROT (if convened by the SPCMCA), and place file in INACTIVE file IAW AR 25-400-2.
19. Ensure the legal review and promulgating order are distributed IAW AR 27-10.
20. Update the court-martial locator file as appropriate.
21. Maintain statistical data IAW AR 27-10, Chapter 15.

References

1. MCM
2. AR 27-10
3. DD Forms 490/491

Performance Measures: None.

Prepare Court-Martial Chronology Sheet.

Conditions: You are a paralegal working in the post-trial section at the Division Criminal Law office.

Performance Steps:

1. ITEM 1 - Enter the beginning date in the first column, and enter "0" in the second column if the accused was restricted, arrested, or confined by military authorities. If NOT, enter "NA" in Item 1.
2. ITEM 2 - Obtain the date the charges were preferred from Item 11e, DD Form 458, and enter it in the first column. Compute the cumulative elapsed days IAW Notes 3 and 4 on the chronology sheet page.
3. ITEM 3 - Extract the date of the Article 32 investigation from Item 1d, DD Form 457, and enter it in the first column of Item 3 on the chronology sheet. Then enter the cumulative elapsed days in the second column. Enter "NA" in Item 3 if an Article 32 investigation was not conducted.
4. ITEM 4 - Obtain the date charges were received by the convening authority and enter it in the first column of Item 4 followed by the cumulative elapsed days. (This date may be the same as the date in Item 13, DD Form 458 if the convening authority completed Section IV of the charge sheet, or it may be obtained from the court-martial locator file. This date must be the same or subsequent to the date of the transmittal memorandum forwarding the charges to the convening authority.)
5. ITEM 5 - Extract the date of referral from Item 14c, DD Form 458, and enter it in the first column of Item 5 on the chronology sheet followed by the cumulative elapsed days.
6. ITEMS 6 - Enter the date of sentence or acquittal and the cumulative elapsed days in the appropriate columns.
7. (Less Days:) Verify with the trial counsel the authorized number of days to deduct because the accused was sick, in the hospital, or AWOL, and the number of days to deduct due to delay at the request of defense. Insert written requested defense delays in the ROT. If there are no delays, enter "0" in the spaces provided. Enter the inclusive dates and the reasons for delays in the "REMARKS" section.
8. ITEM 7 - Compute the net elapsed days to sentence or acquittal and enter them in Item 7.
9. ITEM 8 - Enter the date the record was received by the convening authority, and enter the date of action followed by the cumulative elapsed days in the appropriate columns.

10. ITEM 9 - Enter the date the record was received by the SJA office for review under Article 64a, UCMJ, if applicable, and enter the date of supplementary action by the GCMCA, if any, followed by the cumulative elapsed days.

11. Ensure post-trial defense delays as a result of extensions of time granted pursuant to R.C.M. 1105(c), R.C.M. 1106(f), and/or R.C.M.1110(f), if any, are deducted from the overall processing time (and attached to the ROT).

NOTE: Ensure that standard letters, memoranda, or forms used to transmit records of trial and SJA reviews or recommendations to defense counsel/accused include a place for recording dates of receipt.

a. Enter each delay in the "REMARKS" section (e.g., Defense delay, R.C.M. 1105(c); 5 days (6-10 Mar 97).

b. Enter the sum of any R.C.M. 1105 and R.C.M. 1106 extensions as a negative figure (-10) immediately before the final total in the cumulative elapsed days column.

c. Enter any extension under R.C.M. 1110(f) as a negative figure (-10) immediately after the final total in the cumulative elapsed days column.

12. Enter the date the record is forwarded IAW R.C.M. 1111 in the space provided.

13. Ensure the chronology sheet is signed by the convening authority or authorized representative if convened by the SPCMCA. Ensure the name, rank, and title of the officer signing are entered.

14. Ensure the chronology sheet is signed by the SJA or authorized representative if convened by the GCMCA. Ensure the name, rank, and title of the SJA are entered.

15. List the name of the confinement facility in the remarks block.

References

1. MCM
2. AR 27-10

Performance Measures: None.

Prepare and Process SJA's Post-Trial Recommendation.

Conditions: You are a paralegal working in the Criminal Law section at the Office of the Staff Judge Advocate. It's time for the convening authority to take action on a case. Before the CA can do that the SJA must provide a post-trial recommendation.

Performance Steps:

1. The Staff Judge Advocate's recommendation (SJAR) is a concise written communication.
2. The SJAR includes the findings and sentence adjudged by the court-martial.
3. The SJAR includes guidance as to clemency recommended by the sentencing authority (if applicable).
4. The SJAR includes a summary of the accused's service record, to include length and character of service, awards and decorations received, and any records of non-judicial punishment and previous convictions.
5. The SJAR includes a statement as to the nature and duration of any pretrial restraint.
6. The SJAR includes if necessary, a statement of any action the convening is obligated to take under a pretrial agreement, or reasons why the convening authority would not be obligated to honor the pretrial agreement.
7. The SJAR includes a recommendation as to the action to be taken by the convening authority on the sentence.
8. If necessary the SJAR includes a statement as to the nature of legal errors found in the record of trial.
9. Ensure a copy of the SJAR is delivered to the accused and to defense counsel

References

MCM

Performance Measures:

Situation

You are working in the post-trial section at the OSJA, Fort Atterbury, IN. Your supervisor has asked you to prepare a post-trial recommendation for the SJA's signature. Use the following information in your preparation:

Accused: PFC SEPVEDA, Benjamin, 422-79-5578, HHC, 1/12th IN Bn, 1st BDE, 54th ID (M) Fort Atterbury, IN 46124-9000.

Date of trial: 28 Nov 04. Date of Birth: 4 September 1980. Marital Status: Single.

Dependents: None. Civilian Education: High School Graduate. Military Education: None.

BASD: 27 Aug 00. Current enlistment: 4 years.

Total Creditable Service: approximately 1 year and 6 months at time of trial

Military awards received: NDSM, ASR, GWTSM, M16 Qualification Badge

GT Score: 113. No prior military or civilian criminal or disciplinary convictions.

Charge: Article 86.

Specification: In that PFC Benjamin Sepveda, U.S. Army, did, on or about 4 January 2002, without authority, absent himself from his unit at which he was required to be, to wit: HHC, 1/12th IN Bn, located at Fort Atterbury, IN 46124-9000, and did remain so absent until on or about 17 October 2004.

Your office symbol: FAIN-JA-CL. The SJA's name is COL MICHAEL S. JONES.

PFC Sepveda was found guilty at a Special Court-Martial on 28 November 2004. PFC Sepveda plead guilty to both the charge and its specification. There was a pretrial agreement in the case. In exchange for his pleas of guilty the convening authority agreed to refer the case to a Special Court-Martial, and also agreed to disapprove any sentence to confinement in excess of 5 months. The maximum sentence authorized in this case is reduction to PV1 (E1); forfeiture of two-thirds pay per month for 12 months; confinement for 12 months; and a bad-conduct discharge. The adjudged sentence was reduction to PV1 (E1); forfeiture of \$795.00 pay per month for 6 months; confinement for 6 months; and a bad-conduct discharge. All other legal punishments are authorized. The military judge did not recommend any clemency. There was no pretrial confinement credit, administrative credit, or credit for pretrial restraint. The SJA is recommending to the convening authority that the sentence be approved and except for the bad-conduct discharge order the execution of all punishments. The convening authority is the Commander, 54th ID (M), Fort Atterbury, IN 46124-9000.

Requirement

Prepare the SJA's post-trial recommendation.

See Appendix A-25 for the answers to this exercise.

Prepare Convening Authority's Action.

Conditions: You are a paralegal working in the post-trial section at the Office of the Staff Judge Advocate. The SJA's post-trial recommendation has been completed and the CA is going to take action on the sentence.

Performance Steps:

1. Ensure the ROT is authenticated.
2. Ascertain whether the ROT reflects that the accused was convicted. If trial resulted in an acquittal, no action is required.
3. Ensure the requirements of R.C.M. 1105 and, if applicable, R.C.M. 1106 have been met.
4. Forward the authenticated ROT along with the recommendation of the SJA and other matters to the convening authority for consideration IAW the MCM.
5. Ascertain the desired action of the convening authority and prepare the Action IAW the MCM and AR 27-10.
6. Enter the action in item 13, DD Form 2329, for a SCM IAW the MCM and AR 27-10.
7. Prepare the action for a SPCM or GCM on plain bond paper IAW the MCM and AR 27-10.
 - a. Center the word "ACTION" (capitalized) on the eighth line of the paper.
 - b. Center the heading of the convening authority beginning on the second line below the word "ACTION."
 - c. Enter the date the action is signed on the second line below the heading so that it ends at the right margin.
 - d. Enter the body of the action on the second line below the date beginning at the left margin.
 - e. Enter the signature block of the convening authority on the fifth line below the body of the action beginning at the center of the page.
8. Ensure the convening authority personally signs the action.
9. Ensure a copy of the action is served on the accused or on defense.

10. Notify the confinement facility and finance and accounting office (FAO) providing finance service to that facility within 24 hours of convening authority action IAW AR 27-10 and AR 190-47 if the accused is confined.

References

1. MCM
2. AR 27-10
3. AR 190-47

Performance Measures:

Situation

Use the situation contained in the task "Prepare and Process SJA's Post-Trial Recommendation" to complete the Action.

Additional information provided: The ROT was authenticated on 3 Dec 04 and the accused waived his right to submit matters under R.C.M. 1105 during trial on the record. The convening authority directed that an action reflecting the maximum sentence he can approve be prepared for his signature today, 17 Dec 04. The convening authority is MG HERMAN SCHWARZENDORFER, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000.

Requirement

Prepare the convening authority's action.

See Appendix A-26 for the answers to this exercise.

Prepare and Process Initial Court-Martial Promulgating Order.

Conditions: You are a paralegal working in the post-trial section at the Office of the Staff Judge Advocate. Action has been taken on a case you have been processing. It's time to promulgate!

NOTE: Promulgate - To publish; to announce officially; to make public as important or obligatory. The formal act of announcing a statute or rule of the court. (As defined by Black's Law Dictionary).

Performance Steps:

1. Ensure the ROT is authenticated and the action of the convening authority is inserted in the record.

NOTE: The convening authority will issue an order promulgating the results of trial for all GCMs and SPCMs.

2. Obtain the orders file, determine the next SPCM or GCM order number, as appropriate, and update the orders log.

3. If the initial promulgating order for a general or special court-martial contains findings of guilt as to any qualifying military offense, the Staff Judge Advocate shall ensure that the top of the first page of the order is annotated in bold with "DNA processing required. 10 USC 1565." A "qualifying military offense" is a felony or sexual offense determined by the Secretary of Defense to be a qualifying military offense for the purposes of 10 USC section 1565.

4. The body of the order will contain the elements outlined in R.C.M. 1114 in the format of appendix 17, MCM. If the order promulgates the proceedings of a rehearing, it will recite that fact together with the number and date of the court-martial order publishing the former proceedings.

5. Prepare the order in the following format (an example of an initial promulgating order can be found in AR 27-10 Figure 12-1):

a. Enter the notation "Special (or General) Court-Martial Order Number xx was the last of the series for 20xx" above the heading if the order is the first issued for the calendar year.

b. Enter the order designation, date, and number IAW AR 27-10.

c. Enter the body of the order IAW the MCM and AR 27-10, figure 12-1.

d. Enter the order authentication IAW AR 27-10 and AR 600-8-105.

e. Enter the distribution IAW AR 27-10 and AR 600-8-105.

- f. Enter the signature block IAW AR 25-50.
 - g. Ensure the order is signed IAW AR 27-10.
6. File a copy of the initial court-martial promulgating order in the reference record sets of military publications/ personnel-type orders IAW AR 27-10, AR 600-8-105, and AR 25-400-2.
7. Prepare a corrected initial court-martial promulgating order, if necessary IAW AR 27-10 and AR 600-8-105.

References

- 1. MCM
- 2. AR 27-10
- 3. AR 600-8-105
- 4. AR 25-400-2

Performance Measures:

Situation

Use the situations in the Task: Prepare Convening Authority's Action and the Task: Prepare SJA's Post-Trial Recommendation.

Additional information provided:

PFC Sepveda was arraigned at Fort Atterbury, IN. The last SPCM promulgating order number was 45. SFC Tank Carbrera, the division Criminal Law NCOIC has signature authority for MG Schwarzenborfer and will be signing the promulgating order. MG Schwarzenborfer wants the maximum possible sentence approved. Distribution is IAW AR 27-10 paragraph 12-7.

Requirement

Prepare an initial promulgating order.

See the Appendix A-27 for the answers to this exercise.

Process Non-punitive Administrative Letters of Reprimand for Filing in the Official Military Personnel File (OMPF).

Conditions: You are a battalion paralegal and your commander has directed you to prepare a written administrative reprimand for a soldier in your unit accused of driving under the influence of alcohol.

Performance Steps:

1. Gather facts surrounding the case. Military or civilian police reports, AR 15-6 investigations, and sworn statements are a few examples.
2. Prepare the written reprimand based on facts gathered and follow the memorandum format set forth in AR 25-50. The memorandum will be addressed to the soldier in question.
3. Minor behavior infractions or honest mistakes chargeable to sincere but misguided efforts will not normally be recorded in a soldier's OMPF.
4. Unfavorable information that should be filed in official personnel files includes indications of substandard leadership ability, promotion potential, morals, and integrity.
5. A letter, regardless of the issuing authority, may be filed in the OMPF only upon the order of a general officer (to include one frocked to the rank of brigadier general) senior to the recipient or by direction of an officer having general court-martial jurisdiction over the individual.

NOTE: The letter does not need to be written or signed by a general officer. A general officer must however make the decision to file the letter in the OMPF.

6. Letters filed in the OMPF will be filed on the performance portion (P-fiche). The direction for filing in the OMPF will be in memorandum format.
7. The letter will contain a statement that indicates it has been imposed as an administrative measure and not as a punishment under UCMJ, Article 15.
8. A letter to be filed in a soldier's OMPF will:
 - a. Be referred to the recipient concerned for comment according to paragraph 3–6, AR 600-37.
 - b. The referral will include reference to the intended filing of the letter.
 - c. The referral will also include and list applicable portions of investigations, reports, and other documents that serve, in part or in whole, as the basis for the letter, providing the recipient was not previously provided an opportunity to respond to information reflected in that documentation.

9. Unfavorable information will be referred to the recipient for information and acknowledgement of his or her rebuttal opportunity. Acknowledgement and rebuttal comments or documents will be submitted generally in the following form:

a. "I have read and understand the unfavorable information presented against me and submit the following statement or documents in my behalf:"

b. "I have read and understand the unfavorable information presented against me and elect not to make a statement."

c. If a recipient refuses to acknowledge the referral of unfavorable information, the reprimanding official will prepare the following statement, "On (date), (name) has been presented with the unfavorable information and refuses to acknowledge by signature."

10. Statements and other evidence furnished by the recipient will be reviewed and considered by the officer authorized to direct filing in the OMPF. This will be done before a final determination is made to file the letter. Should filing in the OMPF be directed, the statements and evidence, or facsimiles thereof, may be attached as enclosures to the basic letter.

11. If it is desired to file allied documents with the letter, these documents must also be referred to the recipient for comment. This includes statements, previous reprimands, admonitions, or censure. Allied documents must also be specifically referenced in the letter or referral document.

12. If the general officer (or general court-martial authority) elects not to place the letter in the OMPF, the correspondence will be returned to the person writing the letter. That soldier will be advised of the decision not to file the letter in the OMPF.

References

1. AR 600-37
2. AR 25-50

Performance Measures:

You are the brigade paralegal NCOIC, for 1st Brigade, 54th Infantry Division (M), Fort Atterbury, Indiana 46124-9000. The brigade commander, COL Michael S. Jones, IN, has just handed you MP Report #445-hh-6587, referencing a DUI charge for SGT William Boozer, 062-45-8123, HHC, 1st Brigade, Fort Atterbury, IN 46124-9000. COL Jones instructed you to prepare a non-punitive administrative reprimand with the intention it be filed in the OMPF. COL Jones plans on sending the reprimand to the commanding general, MG HERMAN SCHWARZENDORFER, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana 46124-9000, and request that the letter be filed in the OMPF.

SGT Boozer was pulled over by the military police on Barracks Drive, Fort Atterbury, Indiana, on 31 Oct 04. The MP observed SGT Boozer's red Jeep swerving across the center line of Albanese Road. After stopping the Jeep, the MP noticed a strong odor of alcohol on SGT Boozer's breath. A field sobriety test was performed which SGT Boozer failed. SGT Boozer was taken to the Provost Marshall's Office and administered a breathalyzer test which showed a result of .135 grams of alcohol per 210 liters of breath.

The letter is to be signed by COL Jones today, 2 Nov 04. SGT Boozer acknowledged receipt of the letter on 3 Nov 04 and chose not to submit a rebuttal.

Brigade Commander office symbol – TRRZ-BD-CO

Division Commander office symbol – TRRZ-CG

Requirement

Prepare a non-punitive administrative reprimand for COL Jones' signature. COL Jones plans on getting the MP report placed into the OMPF as well. Prepare a receipt for SGT Boozer's signature acknowledging that he has seen the reprimand and MP report. Prepare an addendum for the CG with the opportunity to either file the reprimand in the OMPF or to return the action to COL Jones.

See Appendix A-28 for the answers to this exercise.

Prepare and Process Involuntary Enlisted Administrative Separations for the U.S. Army Reserve and the U.S. Army National Guard.

Conditions: You are a battalion paralegal. A company commander from your battalion has asked you to prepare an involuntary administrative separation pursuant to AR 135-178, Enlisted Administrative Separations.

Performance Steps:

Department of the Army separation policy is designed to strengthen the concept that military service is a calling different from any civilian occupation. Reasonable efforts should be made to identify soldiers who are likely to be separated early, and to improve their chances for retention through counseling, retraining, and rehabilitation prior to initiation of separation proceedings.

1. Determine if the notification procedure or the administrative board procedure is to be used. AR 135-178 Chapter 3, Section II and III covers notification and board rights.

NOTE: What triggers use of the administrative board procedure:

a. If a soldier has 6 or more years of active and/or reserve/or guard time on the date of notification of separation they are entitled to have their case heard by an administrative separation board.

b. A soldier cannot be separated with a characterization of service as Under Other Than Honorable Conditions without first being afforded the opportunity to present their case to an administrative separation board.

c. All soldiers being separated under Chapter 10, Homosexual Conduct, are entitled to have their case heard by an administrative separation board.

The Notification Procedure: The initiation of an administrative separation process in which the respondent is notified, in writing, of the proposed separation, the bases thereof, the results of separation, and his or her rights. This term is commonly used when the respondent does not have a right to a hearing before an administrative separation board.

The Administrative Board Procedure: An administrative separation action wherein the respondent will have a right to a hearing before a board of commissioned, warrant, and/or noncommissioned officers. It is initiated in the same manner as the Notification Procedure.

2. Determine what chapter in AR 135-178, Enlisted Administrative Separations, will be used to request separation of the soldier. Ensure evidence meets the criteria of the specific chapter you are using. (See Appendix A-31 for a list on Involuntary Separations).

3. Prepare the notification memorandum IAW AR 135-178, Figure 3-1 or 3-4.

4. Ensure the commander signs the notification memo. Serve the soldier with the notification of separation and allied documents.

NOTE: Personal service is preferred but mail is authorized. The person that mails the packet will prepare an affidavit of service and ensure the package is sent certified return receipt requested.

5. Prepare the soldier's response memorandum and include it in the packet when mailing the notification memorandum. See AR 135-178, Figure 3-2 for an example of the soldier's response memorandum. Include information as to how the soldier can contact an attorney for counseling.
6. Allow the soldier a reasonable time to respond to the notification (at least 30 calendar days). Failure to respond constitutes a waiver of the soldier's rights.
7. Prepare the commander's separation report IAW AR 135-178, Figure 3-3.
8. Prepare a memorandum for the intermediate commander with options for disapproval or approval. Include all (not just those given by the initiating commander) options as to characterization of service for the intermediate commander. Intermediate commanders can disapprove the request. If separation is recommended forward the action to the separation authority.
9. The separation authority can do the following:
 - a. Approve the separation if there is sufficient evidence to support the request.
 - b. Disapprove the separation and return to the requesting commander with written guidance as to why it was disapproved.
 - c. Suspend the separation.

References

1. AR 135-178
2. AR 15-6

Performance Measures:

Situation

You have been tasked to prepare an enlisted administrative separation on a United States Army Reserve soldier. The company commander has provided you with 10 counseling statements (DA Form 4856), and two Article 15s (DA Form 2627), pertaining to PV1 Daren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH, 42119. PV1 Trugger is an Individual Mobilization Augmentee.

Listed below are summarized versions of the counseling statements PV1 Trugger received (DA Form 4856):

1. Dated 15 Jun 04, for disrespect to SFC Michael Smith. SFC Smith states PV1 Trugger rolled his eyes after he told him to do police call, SFC Smith wrote the counseling.

2. Dated 16 Jun 04, disrespect to SSG Karen Walden. SSG Walden states PV1 Trugger told her "buzz off" after she instructed him to button his BDU top. SSG Walden wrote the counseling.

3. Dated 24 Jul 04, failure to obey a lawful order. 1SG Buzz McKenzie states PV1 Trugger failed to comply with an order he gave him to pull all the weeds from the rock bed in front of the unit orderly room. 1SG McKenzie wrote the counseling.

4. Dated 25 Jul 04, for failure to report on 24 Jul 04. SGT Stacey Sanchez states PV1 Trugger failed to report for the 0630 PT/accountability formation adjacent to Bldg. 155.

5. Dated 4 Aug 04, for leaving place of duty on 3 Aug 04. SGT Stacey Sanchez states PV1 Trugger left his appointed place of duty to wit: the unit motor pool at 1400 without proper approval, she wrote the counseling.

6. Dated 4 Aug 04, failure to obey lawful order. SGT Stacey Sanchez gave PV1 Trugger an order to PMCS his assigned vehicle before leaving for lunch. PV1 Trugger failed to do so.

7. Dated 14 Sep 04, failure to report on 14 Sep 04. SGT Stacey Sanchez states PV1 Trugger failed to report for the 0630 PT/accountability formation adjacent to Bldg. 155.

8. Dated 15 Sep 04, failure to obey lawful order. SSG Karen Walden states PV1 Trugger disobeyed her order to "stand at parade rest" while she was talking with him. SSG Walden wrote the counseling.

9. Dated 4 Oct 04, drunk on duty. At the 0630 PT/accountability formation SGT Stacey Sanchez detected the odor of alcohol on PV1 Trugger's breath. She informed the First Sergeant and Commander. The Commander determined after speaking with PV1 Trugger that there was sufficient evidence to get PV1 Trugger tested. PV1 Trugger was taken to the MP station and given a breathalyzer test resulting in a BAC of .072%. SGT Sanchez wrote the counseling.

10. Dated 5 Oct 04, failure to be at appointed place of duty. On the evening of 4 Oct 04, PV1 Trugger was to report to the battalion SDNCO for extra duty. PV1 Trugger never showed and SGT Stacey Sanchez counseled him the next morning.

Listed below is a description of the two Article 15s PV1 Trugger received:

1. DA Form 2627, dated 4 Oct 04, for the offenses listed in paragraphs 1 through 9 above.

2. DA Form 2627, dated 6 Oct 04, for the offense listed in paragraph 10 above.

Today is 15 Nov 04. The company commander is CPT Daniel Jenkins, EN, and he has had enough. CPT Jenkins wants to notify PV1 Trugger today of the separation. You have coordinated with a local TDS field office to have PV1 Trugger see CPT Clay Jefferson, to go over the election of rights/soldier's response memorandum on 16 Nov 04. PV1 Trugger has less than one year of reserve duty as of today. The office symbol for CPT Jenkins is FCOPP-CO.

Requirement

Using the appropriate chapter in AR 135-178, prepare the notification memorandum and the soldier's election of rights (soldier's response) memorandum. Use the figures in AR 135-178.

NOTE: AR 135-178, Figures 3-1, and 3-2, talk about using endorsements as a method of written communication. In the most recent revision of AR 25-50 Preparing and Managing Correspondence, endorsements were eliminated. Use memorandum format instead of the endorsement format.

See Appendix A-29 for the answers to this exercise.

USAR and ARNGUS Enlisted Separations Information

Processing time for separations when the Notification Procedure is used will not exceed 45 days. Processing time when the Administrative Board Procedure is used will not exceed 90 days. Time will be measured from the date of notification to the soldier of the proposed separation to the date of separation.

To ensure separation processing goals are met, commanders initiating separation actions under the Notification Procedure (AR 135-178, chap 3, sec II), or the Administrative Board Procedure (AR 135-178, chap 3, sec III), will initiate, maintain, and file DA Form 5138-R. On final disposition of the proceedings, a copy of DA Form 5138-R will be filed with each copy of the proceedings.

Types of involuntary separations per AR 135-178:

- a. Chapter 6-5 Separation Due to Parenthood.
- b. Chapter 6-7 Other Designated Physical or Mental Conditions.
- c. Chapter 7-1 Minority Enlistments (under 17 years of age).
- d. Chapter 7-2 Erroneous Enlistment, Reenlistment, and Extension.
- e. Chapter 7-3 Defective Enlistments or Reenlistments.
- f. Chapter 7-4 Fraudulent Enlistments or Reenlistments.
- g. Chapter 8 Entry Level Performance and Conduct.
- h. Chapter 9 Unsatisfactory Performance.
- i. Chapter 10 Homosexual Conduct.
- j. Chapter 11 Substance Abuse Rehabilitation Failure.
- k. Chapter 12-1a Misconduct: Minor Disciplinary Infractions.
- l. Chapter 12-1b Misconduct: A Pattern of Misconduct.
- m. Chapter 12-1c Misconduct: Commission of a Serious Offense.
- n. Chapter 12-1d Misconduct: Abuse of Illegal Drugs.
- o. Chapter 12-2 Misconduct: Conviction by Civil Court
- p. Chapter 13 Unsatisfactory Participation in the Ready Reserve.

- q. Chapter 14 Secretarial Plenary Authority.
- r. Chapter 15-1a Non-citizens.
- s. Chapter 16 Failure to Meet Army Body Composition Standards.

Medical examinations are required for soldiers being processed for separation under chapter 6 (paras 6-3, 6-6, and 6-7 only). Medical examinations will be administered if requested in writing by the soldier or if the soldier's commander considers it necessary based on the circumstances of the case or when the soldier's fitness is in doubt.

Paragraph 1-8 AR 135-178 does not require Chapter 16 Failure to Meet Army Body Composition Standards to have a medical exam, however, a medical exam is required to determine if the body composition problem is medically related.

The authority to order separation of all Army National Guard members is reserved to the State Adjutant General. Authority to order separation of United States Army Reserve personnel is as follows:

- a. The Commander, Human Resources Command – St. Louis, has authority for Individual Mobilization Augmentee (IMA), Individual Ready Reserve (IRR), Standby Reserves, and Retired Reserves.

- b. Area Commanders have authority in all other USAR cases. Authority can be delegated to general officers that have Staff Judge Advocates or legal advisors.

Soldiers with more than 18 and less than 20 years of service for qualifying retired pay will not be separated without approval of the Secretary of the Army.

Soldiers assigned under the Commander, Human Resources Command will be referred to the local Area Commander for administrative board separations. The Commander, HRC, however, maintains final separation authority.

Soldiers being separated under the following chapters who have a military service obligation (MSO) remaining at time of separation will be transferred to the Individual Ready Reserve (IRR):

- a. Chapter 8 Entry Level Performance and Conduct.
- b. Chapter 13 Unsatisfactory Participation.
- c. Chapter 14 Secretarial Plenary Authority (as determined by HQDA).
- d. Chapter 16 Failure to Meet Body Composition Standards.

MSO: (military service obligation) All soldiers that enlist in the Army incur an 8 year obligation. If a soldier serves 5 years in the reserves and terminates service they will continue to serve 3 years in the IRR. See AR 135-178 paragraph 4-2, for an in-depth explanation of MSO.

Soldiers will be counseled by a responsible person about their deficiencies at least once before initiating separation action for Chapters 6-5, 6-7, 8, 9, 12-1a, 12-1b, and Chapter 16. Counseling will include, but not be limited to, the following:

- a. Reasons for counseling.
- b. The fact that continued behavior of a similar nature or additional misconduct may result in the soldier's separation.
- c. The characterization of service that may be issued and the effect of each type if such action is taken and separation accomplished.

Each counseling session will be recorded in writing (to include date and by whom counseled).

Rehabilitation - If practical, one of the following measures will be taken before initiating separation:

- a. Soldiers assigned to the ARNGUS or USAR Troop Program Unit (TPU) will be reassigned at least once if within commuting distance, with a minimum of two months in each ARNGUS unit or USAR TPU.
- b. If case reassignment is restricted (for example, small, independent, or isolated unit), or the soldier is assigned to the IRR or Standby Reserve, the commander will ensure that proper alternate rehabilitation measures are employed, if feasible.

The separation authority may waive the rehabilitation reassignment if:

- a. Reassignment is not feasible because there are no appropriate units within a reasonable commuting distance of the soldier's residence.
- b. Further duty of the soldier would create serious disciplinary problems, or create a hazard to the military mission or the soldier.
- c. It would seriously affect unit readiness.
- d. Further duty of the soldier would be inappropriate because the soldier is resisting all rehabilitation attempts.
- e. That rehabilitation would not produce the quality soldier desired by the ARNGUS and USAR.

The Notification Procedure

When the notification procedure is used the commander will notify the soldier of:

- a. The basis of the proposed separation, including the circumstances upon which the action is based, and a reference to the applicable provisions of this regulation.
- b. Whether the proposed separation could result in a discharge from the Army, transfer from the ARNGUS to the USAR, or release from custody or control of the Army.
- c. The least favorable characterization or description of service authorized for the proposed separation.
- d. The right to obtain copies of documents that will be sent to the separation authority.
- e. The soldier's right to submit statements.
- f. The soldier's right to consult with counsel.
- g. If the soldier has six or more years of total active and reserve military service on the date of initiation of recommendation for separation, the soldier's right to request an Administrative Board.
- h. The right to waive the rights in paragraphs (d) through (g) above, in writing.
- i. Failure to respond within 30 days of the notification constitutes a waiver of these rights.

The respondent will be given not less than 30 calendar days to respond to the notification of separation. The initiating commander will forward the request for separation through the chain of command for recommendations to the separation authority. The intermediate commanders may either disapprove and reassign the respondent or recommend approval and forward the request to the approving authority. The separation authority may approve the separation, disapprove and provide a written response for the disapproval to the initiating commander, or suspend the separation.

The Administrative Board Procedure

When the Administrative Board Procedure is required the soldier will be notified in writing of:

- a. The basis of the proposed separation, including the circumstances upon which the action is based.

b. Whether the proposed separation could result in a discharge from the Army, transfer from the ARNGUS to the USAR, or release from custody and control of the Army.

c. The least favorable characterization or description of service authorized for the proposed separation.

d. The soldier's right to consult with counsel. The soldier may also consult with civilian counsel retained at the soldier's own expense.

e. The right to obtain copies of documents that will be sent to the Separation Authority supporting the basis of the proposed separation.

f. The soldier's right to request a hearing before an Administrative Board.

g. The soldier's right to present written statements instead of board proceedings.

h. The soldier's right to representation at the Administrative Board by military counsel.

i. The soldier's right to representation at the Administrative Board by civilian counsel at the soldier's own expense.

j. Non-lawyer counsel may not represent a soldier before an Administrative Board.

k. The soldier's right to submit a conditional waiver of the right to a hearing before an administrative board.

m. The right to waive rights to a separation board. Failure to respond within 30 calendar days constitutes a waiver of these rights.

n. The right to be present at the board hearing.

Notification will be made in the same manner as is used in the notification procedure.

Board Procedures

The separation authority will appoint to the Administrative Board at least three experienced commissioned, warrant or noncommissioned officers. At least one of the voting commissioned officers must be a Reserve officer. Enlisted soldiers appointed to the Board must be sergeants first class or above and must be senior to the respondent. At least one member of the Board must be a major or higher, and a majority must be commissioned or warrant officers. However, all board members must be commissioned officers (includes warrant officers) if under other than honorable conditions character of service is authorized for the reason for separation.

NOTE: There is an example of a board appointment memorandum in AR 15-6, Figure 2-1.

The procedures of AR 15-6 as they relate to boards of officers will be used in administrative board proceedings. In addition to the information above:

- a. The senior member will be the president of the board.
- b. The separation authority may appoint to the Board a nonvoting recorder.
- c. A nonvoting legal advisor may be appointed to assist the board.
- d. Boards with ARNGUS respondents will include at least one ARNGUS officer as a voting member.
- e. Boards with USAR respondents will include at least one USAR officer as a voting member.
- f. The separation authority will ensure that the opportunity to serve on administrative boards is given to women and minorities. The mere appointment or failure to appoint a member of such a group to the board, however, does not provide a basis for challenging the proceeding.

The board proceedings will be reviewed by a qualified officer fully cognizant of applicable regulations and policies. This officer determines whether the action meets the requirements of this regulation. However, in every case in which characterization of service under other than honorable conditions is recommended, or when limited use evidence was introduced in the board proceedings, or when the soldier identifies specific legal issues for consideration by the separation authority, the proceedings will be reviewed by a member of The Judge Advocate General's Corps.

No separation authority will direct discharge if a board recommends retention. Neither will the separation authority authorize issuance of a discharge of less favorable character than that recommended by the board. However, a separation authority may direct retention when discharge is recommended, or he/she may issue a discharge certificate of a more favorable character than that recommended.

Prepare and Process Active Army Enlisted Separations.

Conditions: You are a paralegal and have been tasked with preparing an involuntary administrative separation for a soldier in your unit.

Performance Steps:

1. Determine if the notification procedure or the administrative board procedure is to be used. AR 635-200 Chapter 2 section I explains the notification procedure and Chapter 2 section II explains the administrative board procedure.

NOTE: What triggers use of the administrative board procedure:

a. If a soldier has 6 or more years of active and/or reserve/or guard time on the date of notification of separation they are entitled to have their case heard by an administrative separation board.

b. A soldier cannot be separated with a characterization of service as Under Other Than Honorable Conditions without first being afforded the opportunity to present their case to an administrative separation board.

c. All soldiers being separated under Chapter 15, Homosexual Conduct, are entitled to have their case heard by an administrative separation board.

The Notification Procedure: The initiation of an administrative separation process in which the respondent is notified, in writing, of the proposed separation, the bases thereof, the results of separation, and his or her rights. This term is commonly used when the respondent does not have a right to a hearing before an administrative separation board.

The Administrative Board Procedure: An administrative separation action wherein the respondent will have a right to a hearing before a board of commissioned, warrant, or noncommissioned officers. It is initiated in the same manner as the Notification Procedure. See the information paper on Active Duty Enlisted Separations for information about administrative board procedures.

2. Determine what chapter in AR 635-200, Active Duty Enlisted Administrative Separations, will be used to separate the soldier. Ensure evidence meets the criteria of the specific chapter you are using.

3. Prepare the notification memorandum IAW AR 135-178 Figure 2-1 or 2-3.

4. Ensure the commander signs the notification memorandum.

5. Prepare the soldier's election of rights memorandum IAW Figure 2-4, AR 635-200. Provide the soldier with a copy of the entire separation packet including all allied documents.

6. Allow the soldier a reasonable time to respond to the notification (at least 3 duty days), and provide information as to where the soldier can get legal counsel.

7. Prepare the commander's separation report IAW AR 635-200, Figure 2-5. Forward the separation packet with all allied documents to the intermediate commanders for recommendation or action.

NOTE: Intermediate commanders cannot disapprove requests for separation except in cases governed by Chapter 13, Unsatisfactory Performance, Chapter 14, Misconduct (except when the case involves the abuse of illegal drugs), and Chapter 15, Homosexual Misconduct.

8. The separation authority can do the following:

- a. Approve the separation if there is sufficient evidence to support the request.
- b. Disapprove the separation and return to the requesting commander with written guidance as to why it was disapproved.
- c. Suspend the separation.
- d. If the soldier was eligible and elected to have their case heard by an administrative separation board, the separation authority cannot issue a characterization of service worse than what the board recommends.

NOTE: Consult your local installation transition point on proper out-processing procedures.

References

- 1. AR 635-200
- 2. AR 25-50

Performance Measures:

On 14 Nov 04, SGT Johnny T. Southside tested positive for cocaine at a unit urinalysis. The urinalysis test was random.

SGT Southside's information:

PEBD and BASD: 13 Jun 1997.

SSN: 344-22-9854.

Unit: Co. E, 2/12th IN Bn, 1st Bde, Fort Atterbury, IN 46124-9000.

DOB: 15 May 1973.

Current date and term of enlistment: 15 Oct 01; 4 years.

Prior Service: None.

Aptitude DMOS and scores: 11B30, GT: 95, CA 94, CO 98, EL 101, FA 104, MM 92, FO 94, SC 91, TE 95, GM 92.

CTT: Passed all events on 19 Jun 04.

Counseling Record: No negative or positive counseling.

Rehab attempts: None.

Non-judicial punishment: Field Grade Article 15 on 15 Dec 04 for testing positive for cocaine on 14 Nov 04.

No court-martial convictions.

Medical exam (dtd 15 Dec 04) and mental status (dtd 18 Dec 04) evaluations are attached.

CPT Orr had the following to say about SSG Southside: He has lost all ability and potential to lead soldiers given the fact that he tested positive for an illegal drug. SSG Southside's potential for further service has been significantly degraded and he no longer shows a desire to uphold the Army values. In my opinion this is the only course of action that is appropriate. The Commander anticipates a General (UHC) discharge and is recommending such.

Promotions: PV1 – 130697; PV2 – 011097; PFC – 060798; SPC – 011199; SGT – 010502; SSG – 010603.

Reductions: Reduced to from SSG/E6 to SGT/E5 via Field Grade Article 15 on 15 Dec 04.

Time lost: None.

Awards: ASR, OSR, NCOPD, GCM x 2, AAM x 2, ARCOM x 2, NDSM, GWTEM.

Company Commander's Rank, Name and Branch: CPT Peter C. Orr, IN.

CPT Orr is recommending that SGT Southside be separated with a General (under honorable conditions) discharge.

Co E, 2/12th IN Bn, office symbol: KSLL-EC-CO.

Counsel for Respondent: CPT Amanda Carr, JA

Requirement

Prepare the notification memorandum, election of rights memorandum, and commander's report to the separation authority for the situation listed above. Refer to AR 635-200 for proper formats.

See Appendix A-30 for the answers to this exercise.

Involuntary Active Duty Enlisted Separations Information.

Types of Involuntary Separation

Chapter 5-8	Separation Due to Parenthood
Chapter 5-13	Personality Disorder
Chapter 5-17	Other Physical/Mental Conditions
Chapter 7-15	Erroneous Enlistments, Re-enlistments, Extensions
Chapter 7-16	Defective or Unfulfilled Enlistment/Re-enlistment Agreements
Chapter 7-17	Incident of Fraudulent Entry
Chapter 9	Alcohol or Other Drug Abuse Rehabilitation Failure
Chapter 11	Entry Level Performance and Conduct
Chapter 13	Unsatisfactory Performance
Chapter 14-12a	Minor Disciplinary Infractions
Chapter 14-12b	Pattern of Misconduct
Chapter 14-12c	Commission of Serious Offense
Chapter 15	Homosexual Misconduct
Chapter 18	Failure to Meet Body Fat Standards

Processing Times

Processing time for separations when the notification procedure is used will not normally exceed 15 working days. Processing time when the administrative board procedure is used will not normally exceed 50 working days. Processing time will be measured from the date the soldier acknowledges receipt of the notification of the proposed separation to the date the separation authority directs separation. Shorter processing times are encouraged, particularly for cases in which prompt action is likely. Failure to process an administrative separation within these timeframes will not prevent separation or characterization of service. DA Form 5138–R, is used to ensure processing goals are met.

Automatic Reduction in Grade

When a soldier is to be discharged under other than honorable conditions, the separation authority will direct an immediate reduction to the lowest enlisted grade per AR 600–8–19, chapter 7. Include language to this effect in the separation authorities approval memorandum.

Soldiers with more than 18 Years of Service

If proper authority recommends involuntary separation of a soldier with 18 or more years of active Federal service, the proceedings, with complete documentation and the recommendation of the separation authority, will be sent to Headquarters, Department of the Army (AHRC–EPR–F), 200 Stovall Street, Alexandria, VA 22332–0478, for final determination. Except when discharged pursuant to the approved sentence of a court-martial or for physical disability (AR 635–40), any soldier who has completed 18 or more years of active Federal service will not be involuntarily discharged or released from active duty without approval at HQDA level. These separation actions will be submitted to HQDA (AHRC–EPR–F) for forwarding to the proper authority. Requests for voluntary separation (for example, those submitted under chaps 6, 10, or 16) need not be sent to HQDA for approval.

Counseling and Rehabilitation

A substantial investment is made in training persons enlisted or inducted into the Army; therefore, this general guidance will be considered when initiating separation action.

When deciding retention or separation in a case, consider the following factors:

- a. The seriousness of the events or conditions that form the basis for initiation of separation proceedings. Also consider the effect of the soldier's continued retention on military discipline, good order, and morale.
- b. The likelihood that the events or conditions that led to separation proceedings will continue or recur.
- c. The likelihood that the soldier will be a disruptive or undesirable influence in present or future duty assignments.
- d. The soldier's ability to perform duties effectively now and in the future, including potential for advancement or leadership.
- e. The soldier's rehabilitative potential.
- f. The soldier's entire military record, including past contributions to the Army, assignments, awards, evaluations, and letters of commendation.
- g. Memoranda of reprimand or admonition, counseling records, records of non-judicial punishment, records of conviction by court-martial and records of involvement with civilian authorities.

h. Adverse information from a prior enlistment or period of military service only when such information would have a direct and strong probative value in determining whether separation is appropriate.

In unusual situations, conduct from a prior enlistment that does not constitute a pattern of conduct manifested over an extended period of time may be considered in determining whether retention or separation is warranted. For example, a single incident of misconduct occurring in the prior period of service that, by itself, would warrant separation may be considered if the officials in the soldier's chain of command neither knew, nor reasonably should have known of, at the time the soldier re-enlisted.

Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to soldiers. It is essential that soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. Effective leadership is particularly important in the case of soldiers serving their initial enlistments. Except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining that a soldier has no potential for further useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for the following reasons:

- a. Involuntary separation due to parenthood. (See para 5–8.)
- b. Personality disorder. (See para 5–13.)
- c. Other designated physical or mental conditions. (See para 5–17)
- d. Entry-level performance and conduct. (See chap 11.)
- e. Unsatisfactory performance. (See chap 13.)
- f. Minor disciplinary infractions or a pattern of misconduct. (See para 14–12a/b)
- g. Failure to meet body fat standards. (See chap 18.)

When a soldier's conduct or performance becomes unacceptable, the commander will ensure that a responsible official formally notifies the soldier of his/her deficiencies. At least one formal counseling session is required before separation proceedings may be initiated. In addition, there must be evidence that the soldier's deficiencies continued after the initial formal counseling.

Counseling will be comprehensive and in accordance with chapter 17 of AR 635-200. It will include the reason(s) it is being administered, the date, the fact that separation proceedings may be initiated if the deficiencies continue, and other guidance as appropriate. Each counseling session must be recorded in writing. DA Form 4856

(General Counseling Form) will be used for this purpose. The soldier's counseling or personal records must reflect that he/she was formally counseled concerning his/her deficiencies and given a reasonable opportunity to overcome or correct them.

The following rehabilitative measures are required prior to initiating separation proceedings for entry-level performance and conduct (see chap 11), unsatisfactory performance (see chap 13), or minor disciplinary infractions/patterns of misconduct (see chap 14):

a. Trainees. Soldiers undergoing initial entry or other training will be recycled (reassigned between training companies or, where this is not feasible, between training platoons) at least once.

b. Other than trainees. Soldiers not in training status will be locally reassigned at least once, with a minimum of 3 months of duty in each unit. Reassignment should be between battalion-sized units or between brigade-sized or larger units when considered necessary by the local commander.

c. Permanent change of station (PCS) transfer. PCS funds normally will not be used for rehabilitative transfers. However, in meritorious cases where it is determined that a soldier with potential to be a distinct asset to the Army would benefit from a change in commanders, associates, and living or working conditions, the commander exercising general court-martial jurisdiction may authorize PCS transfer within the same command.

Waivers:

a. Waiver of the counseling requirement is not authorized.

b. The rehabilitative transfer requirements in chapters 11, 13, and 14 may be waived by the separation authority in circumstances where common sense and sound judgment indicate that such transfer will serve no useful purpose or produce a quality soldier. Such circumstances may include:

1. Two consecutive failures of the Army physical fitness test.
2. Pregnancy while in entry-level status.
3. Highly disruptive or potentially suicidal behavior, particularly in reception battalions.

Waiver of rehabilitative transfer may be granted at any time on or before the date the separation authority approves or disapproves the separation proceedings. Waiver authority may be withheld by a higher separation authority in a particular case, a class or category of cases, or all cases. Decision to withhold waiver authority will be announced in writing.

Authority to Approve Separations

GCMCA = General Court-Martial Convening Authority

SPCMCA = Special Court-Martial Convening Authority

SCMCA = Summary Court-Martial Convening Authority

The approval authority for all separations listed below when the soldier has 18 or more years of service is HQDA.

The approval authorities below are the lowest echelon of commanders that can approve the listed separation.

Chapter 5-8	Separation Due to Parenthood:	SPCMCA
Chapter 5-13	Personality Disorder	SPCMCA
Chapter 5-17	Other Physical/Mental Conditions	SPCMCA
Chapter 7-15	Erroneous Enlistments, Re-enlistments, Extensions	SPCMCA
Chapter 7-16	Defective or Unfulfilled Enlistment/Re-enlistment Agreements	SPCMCA
Chapter 7-17	Incident of Fraudulent Entry	SPCMCA**
Chapter 9	Alcohol or Other Drug Abuse Rehabilitation Failure	SCMCA*
Chapter 11	Entry Level Performance and Conduct	SCMCA*
Chapter 13	Unsatisfactory Performance	SCMCA
Chapter 14-12a	Minor Disciplinary Infractions	SPCMCA**
Chapter 14-12b	Pattern of Misconduct	SPCMCA**
Chapter 14-12c	Commission of a Serious Offense	SPCMCA**
Chapter 15	Homosexual Misconduct	SPCMCA**
Chapter 18	Failure to Meet Body Fat Standards	SCMCA

* The SCMCA can only approve separations in which the notification procedure is used.

** The SPCMCA cannot approve separations when an UOTH conditions discharge is contemplated. The GCMCA is the approval authority and must also be the one to appoint the administrative separation board.

Notification Procedure

When the reason for separation requires the notification procedure, the commander will notify the soldier in writing that his/her separation has been recommended. The commander will cite specific allegations on which the proposed action is based and will also include the specific provisions of AR 635-200 authorizing separation.

The soldier will be advised of:

- a. Whether the proposed separation could result in discharge, release from active duty to a Reserve Component, or release from custody and control of the Army.
- b. The least favorable characterization of service or description of separation he/she could receive.
- c. The type of discharge and character of service recommended by the initiating commander and that the intermediate commander/s may recommend a less favorable type of discharge and characterization of service than that recommended by the initiating commander.
- d. The separation authority is not bound by the recommendations of the initiating or intermediate commander and has complete discretion to direct any type of discharge and characterization of service authorized by applicable provisions of AR 635-200.
- e. To consult with military counsel within a reasonable time (not less than 3 duty days). Soldiers may also consult with civilian counsel at their own expense.
- f. To submit statements in his/her own behalf.
- g. To obtain copies of documents that will be sent to the separation authority supporting the proposed separation.
- h. To a hearing before an administrative separation board under section III of this chapter if he/she had 6 or more years of total active and reserve service on the date of initiation of recommendation for separation. This includes creditable service in any U.S. military component, for example, RA, ARNGUS, USAR (including IRR), USN, USAF, and so forth.
- i. To waive the above rights in writing, including the right to submit a conditional waiver of the right to have the case heard before an administrative separation board.

Failure to respond (including failure to submit matters within 7 duty days will constitute a waiver of the rights.

The soldier's commander or other designated individual will personally serve the soldier with the memorandum of notification. The soldier is required to sign an acknowledgment of receipt. The acknowledgment of receipt will be signed and dated on the date it is served. If notice by mail is authorized and the soldier fails to acknowledge receipt or submit a timely reply, that fact will constitute a waiver of rights. An appropriate notation will be recorded on a retained copy of the appropriate form. The soldier may withdraw his/her waiver of rights at any time prior to the date the separation authority orders, directs, or approves the separation.

The intermediate commander/s, in making recommendations on the type of discharge and characterization of service, may recommend any type of discharge and characterization of service authorized for the notified basis of separation but will normally be limited to considering facts contained within the proposed action. If the intermediate commander/s consider additional unfavorable information outside that contained in the proposed action in making recommendations, the intermediate commander will state, in writing, the specific facts and incidents in the soldier's record that warrant such type of discharge and characterization.

The action of the separation authority will be recorded. Upon receipt of the recommended action the separation authority will determine if there is sufficient evidence to verify the allegations. If no sufficient basis for separation exists, the separation authority will disapprove the recommendation or take other appropriate action under AR 635-200. If the recommendation is disapproved, the return endorsement will cite reasons for disapproval. If sufficient factual basis for separation exists, the separation authority will determine whether separation is warranted per chapter 1, section II, of AR 635-200, and will take one of the following actions:

- a. Direct retention.
- b. Direct separation for a specific reason. (If there is more than one basis for separation, the separation authority will designate the most appropriate basis as the primary reason for reporting purposes.)
- c. Suspend separation per paragraph 1–18, AR 635-200.
- d. The separation authority will determine the type of discharge certificate and character of service.
- e. The criteria in chapter 1, section VII, AR 635-200, will govern whether the soldier will be released from AD or ADT with transfer to the IRR, or discharged.

Administrative Board Procedure

When the reason for separation requires the administrative board procedure, the commander will notify the soldier in writing that his/her separation has been recommended. The commander will cite the specific allegations on which the proposed action is based and include the specific provisions of AR 635-200 authorizing separation. The commander will advise whether the proposed separation could result in discharge, release from active duty to a Reserve Component, or release from custody and control of the Army.

The soldier will be advised of their rights as to:

- a. The least favorable characterization of service or description of separation he/she could receive.
- b. The type of discharge and the characterization of service recommended by the initiating commander and that the intermediate commander/s may recommend a less favorable type of discharge and characterization of service than that recommended by the initiating commander.
- c. To confer with consulting counsel. Soldiers may also consult with a civilian counsel at their own expense.
- d. To obtain copies of documents that will be sent to the separation authority supporting the proposed separation.
- e. A hearing before an administrative separation board.
- f. Present written statements instead of board proceedings.
- g. To waive the above rights in writing. This includes the right to submit a conditional waiver of the right to have a case heard before an administrative separation board.
- h. To withdraw a waiver of the rights listed above anytime before the date the separation authority orders, directs, or approves the separation and to request that the case be presented before a board of officers.

When a soldier waives his/her right to a hearing before an administrative board and the separation authority approves the waiver, the case will be processed without convening a board. However, the separation authority will be the same as if the board was held. A soldier may wish to waive his/her right to a hearing before an administrative separation board contingent upon receiving a characterization of service or description of separation more favorable than the least favorable characterization authorized for the separation reason set forth in the notice of separation action. Soldiers wishing to submit a conditional waiver will submit a completed Request for Conditional Waiver. (See Figure fig 2-2 and

app B of AR 635-200.) Commanders will ensure that a soldier is not coerced into waiving his/her right to a hearing before an administrative separation board. The appropriate separation authority may approve or disapprove the conditional waiver.

Board procedures

Appoint a standing administrative separation board to cover as large a unit as possible. This is beneficial because members become familiar with board procedures. The board should be established by written order from the separation authority.

NOTE: There is an example of a standing board appointment memorandum in AR 15-6, Figure 2-1.

An administrative board will consist of at least three experienced commissioned, warrant, or noncommissioned officers. Enlisted soldiers appointed to the board will be in grade sergeant first class (SFC) or above, and senior to the respondent. At least one member of the board will be serving in the grade of major or higher, and a majority will be commissioned or warrant officers. The senior member will be president of the board.

Care will be exercised to ensure that the board is composed of experienced, unbiased officers. In the case of a female soldier, the board will, upon the written request of the respondent, include a female member as a voting member, if reasonably available. In the event of non-availability, the reason will be stated in the record of proceedings. If the respondent is a member of a minority group, the board will, upon written request of the respondent, include as a voting member a member who is also a minority group member, if reasonably available. When requested, the appointed board member should be of the same minority group as the respondent. However, non-availability of a member of the same minority group will not prevent convening the board. In the event of non-availability, the reason will be stated in the record of proceedings.

A soldier under military control will be notified in writing of the convening date of the board at least 15 days before the hearing.

NOTE: See Figure B-1, AR 635-200, for an example of the Commander's recommendation to the separation/appointing authority, an example of the notification to the soldier, and an example of how to summarize the testimony of the board proceedings.

The proceedings of the board will be summarized as fairly and accurately as possible. They will contain a verbatim record of the findings and recommendations.

DA Form 1574, Report of Investigation by Investigating Officer/Board of Officers, will be completed. Ensure that a verbatim record of the findings and recommendations are included and that all board members sign the form. Include the summary of proceedings with DA Form 1574 and deliver to the separation authority.

Before the separation authority takes action, the board proceedings will be reviewed by a qualified officer fully cognizant of applicable regulations and policies. This officer

determines whether the action meets the requirements of this regulation. This is typically done by the Administrative Law Office. However, unless limited use evidence is used, an UOTH conditions discharge is recommended, or the soldier identifies specific legal issues for consideration, there is no requirement to have a Judge Advocate review the proceedings.

No separation authority will direct discharge if a board recommends retention. Neither will the separation authority authorize issuance of a discharge of less favorable character than that recommended by the board. However, a separation authority may direct retention when discharge is recommended, or he/she may issue a discharge certificate of a more favorable character than that recommended.

- END -

Chapter 2



Legal Assistance

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1. Screen Clients for Legal Assistance.
2. Conduct Notary Services.
3. Draft a Power of Attorney.
4. Process Voluntary Separation for Dependency/Hardship.
5. Process Voluntary Separation for Pregnancy.
6. Information Paper: Wills, Advanced Medical Directives, Health Care POAs.

Screen Clients for Legal Assistance.

Conditions: You are a paralegal working in the Legal Assistance office at your installation. One of your many duties is to screen potential clients to ensure that they are authorized service. You have access to AR 27-3.

Performance Steps:

1. Request a government identification card from the person requesting assistance including orders if necessary (for activated reservists).
2. Your potential client must fall into one of the categories below for service:
 - a. Active Component members of the Armed Forces of the United States (and their family members).
 - b. Reserve Component members of the Armed Forces who:
 1. Are serving on active duty pursuant to orders for more than 29 days (and their family members).
 2. Are serving on active duty pursuant to orders for a period of 29 days or less (and their family members). (Supervising attorneys may limit legal assistance to emergencies or to certain categories of cases based on availability of expertise or resources.)
 3. Are undergoing pre-mobilization legal preparation (PLP) (and their family members). (Supervising attorneys may limit legal assistance based on availability of expertise or resources.)
 - c. AC and RC members of the Armed Forces of the United States who are receiving military retirement or disability pay (and their family members).
 - d. Surviving family members of AC, RC, and retired members of the Armed Forces of the United States who would be eligible for legal assistance if the retired member were alive.
 - e. Department of Defense civilian employees:
 1. Against whom pecuniary liability has been recommended under AR 735-5 with regard to presenting matters in rebuttal to, or on appeal from, such charges.
 2. Who are serving with the Armed Forces of the United States in a foreign country (and their family members who accompany them).
 3. Who have accepted employment outside the United States or who, if already on such duty, return to the United States on home leave (and their family members

who will accompany or have accompanied them (Legal assistance is limited, as determined by the supervising attorney, to matters that relate to processing for employment or, for an employee on home leave, to help with an ongoing legal assistance matter being handled outside the United States).

4. Who are in the United States, its possessions, or territories, and who are designated as "mission-essential" or "emergency-essential" civilian personnel (and their family members on deployment related matters, but only while the employee is deployed).

5. Who are neither "mission-essential" or "emergency essential," but who work in the United States, its possessions, or territories and who are notified that they are to deploy to a combat zone or on a contingency operation (and their family members on deployment related matters, but only while the employee is deployed). (These employees may receive legal assistance on matters related to their imminent or actual deployment. Legal assistance is limited to matters, as determined by the supervising attorney, that relate to deployment. Legal Assistance is authorized for employees and family members for a reasonable period after the employee returns from deployment to close out ongoing legal assistance matters related to deployment that arose before or during deployment.)

f. Civilian contractors accompanying the Armed Forces of the United States outside the United States (and their family members who accompany them), when DOD is contractually obligated to provide this assistance to such personnel as part of their logistical support, as indicated below:

1. The legal assistance provided must be in accordance with and not prohibited by applicable international agreement, or approved by the host-nation government in some way.

2. Legal assistance is limited to ministerial services (for example, notary services), legal counseling (to include the review and discussion of legal correspondence and documents), legal document preparation (limited to powers of attorney and advanced medical directives) and help on retaining civilian lawyers.

g. Primary next of kin (PNOK) as defined in AR 600–8–1, para 4–1a, executors, personal representatives, administrators, and legally recognized estate representatives for matters relating to the settlement of estates of:

1. AC or RC service members who die while in a military duty status.

2. U.S. citizens and nationals who are civilian employees of the Department of Defense and who are serving with or accompanying U.S. Armed Forces outside the United States at the time of their deaths.

h. Fiduciaries, including those who hold powers of attorney, who have been appointed by those listed below to manage their property or handle their personal affairs. (Legal services are limited to matters that would otherwise be within the scope of the legal

assistance program if the grantor were present.)

1. AC or RC service members who are serving in a combat zone or contingency operation.

2. U.S. citizens and nationals who are civilian employees of the Department of Defense and who are serving with or accompanying U.S. Armed Forces in a combat zone or contingency operation.

i. Members of other military forces while serving in the United States (and their family members who accompany them).

j. Prisoners who, although discharged from military service, still remain confined within a U.S. military confinement facility.

NOTE: Legal assistance may be provided over the telephone to a person claiming to be an eligible client only in the absence of a reasonable alternative.

3. Find out why the client is visiting the legal assistance office. Some clients prefer not to discuss their issues in the public setting of a legal assistance office. If this is the case attempt to find a private room to discuss the client's legal issue.

4. If the client is seeking a power of attorney, a notarized signature, or other service not requiring direct consultation with an attorney provide the needed service. If the client seeks a consultation with an attorney conduct a conflict of interest check and proceed accordingly. AR 27-3, para. 4-9 covers conflicts of interest.

NOTE: A conflict check is designed to make sure the same legal assistance office does not represent opposing parties on the same or different matters. This is most commonly accomplished by using the CIS database but can also be done using the client card file. There are exceptions in the area of conflict of interest. Refer to the regulation listed above or your NCOIC, or OIC of the Legal Assistance Office.

5. Determine (IAW 27-3 para. 3-6) if the type of case is something the legal assistance office is authorized to help with.

6. Determine if the client has ever been seen in the legal assistance office. If so, check to see if there is a client card on file. If not, have the client fill out DA Form 2465 (client card).

NOTE: A Staff Judge Advocate may deny legal assistance for a period not to exceed one year to any eligible person who abuses legal assistance privileges. Common reasons for denying service are:

- 1. Missing two or more legal assistance appointments without good cause or prior notification.*
- 2. Misconduct, dishonesty, or other unbecoming conduct during the course of seeking, receiving, or using legal assistance.*
- 3. Knowingly using a legal assistance service for a purpose prohibited by law or regulation.*

References

AR 27-3

Performance Measures: None.

Conduct Notary Services.

Conditions: You are working in the legal assistance office at your installation and an eligible client has asked you to notarize certain documents.

Performance Steps:

Notary: A "notary" or "notary public" is a person authorized to administer oaths and to certify documents as genuine. Military notaries are authorized by federal statute Title 10, United States Code, Section 1044a. That statute also requires all states and US territories to honor the notarial acts of military notaries. A notarial service helps make the statements in affidavits, powers of attorney, and other documents more "official" and promotes their acceptance. A notary's certification on a document assures whoever examines it that it is what it appears to be.

1. Determine if the client is authorized service IAW AR 27-3, (The Legal Assistance Program). In addition to those personnel authorized service IAW AR 27-3, the following people are also authorized notarial services IAW AR 27-55:

a. All individuals serving with, employed by, or accompanying the Armed Forces outside the United States.

b. All other individuals subject to the Uniform Code of Military Justice (UCMJ) outside the United States.

c. DOD civilian employees on matters relating to their official duties (for example, an affidavit or a sworn statement in support of department litigation).

NOTE: Who can be a military notary?

a. All judge advocates and warrant officers who possess a MOSC of 270A.

b. NCOs who -

1. Possess a primary MOS of 27D

2. Serve under the immediate supervision of a judge advocate or Department of the Army (DA) civilian attorney.

3. NCOs in the grade of E-6 or higher who possess a primary MOSC of 27D and are assigned as legal NCOs for Brigade or larger units, whether or not they work under the immediate supervision of a judge advocate or DA civilian attorney. (RC legal NCOs, however, must have specific authorization from their supervising SJA to perform notarial services independently in a non-duty status).

c. All DA civilian attorneys serving as legal assistance officers.

d. Those DA civilian employees appointed by their supervising SJA serving under the immediate supervision of a judge advocate or DA civilian attorney.

e. All adjutants.

f. Soldiers in the rank of PFC (E3) and SPC (E4) who have been provided training, are mature, experienced, have received written approval from the supervising Staff Judge Advocate, and serve under the immediate supervision of a judge advocate or DA civilian attorney.

2. Determine what type of notary service is to be conducted. Common services are powers of attorney, affidavits, certified copies, insurance papers, bank papers, and real estate transactions.

NOTE: Notaries may make certified copies of some original documents provided that the notary determines that the copy to be certified is a full, true, and accurate transcription or reproduction of the original document. Notaries will not make certified copies of public records or of publicly recorded documents (such as court records, birth certificates, marriage certificates, death certificates, car titles, computer generated tax returns, and military leave and earning statements). Military notaries may authenticate copies of public records or publicly recorded documents from an official source for the following limited purposes:

a. Military administration, including finance and personnel administration.

b. Federal administration where allowed by law or other regulation. For example, the Department of Veterans Affairs (VA) allows designated judge advocates to authenticate documents for VA administration.

Authentications of copies of public records, or publicly recorded documents from an official source, will state the purpose for which authenticated (for example, "Authenticated Copy for DFAS," "Authenticated Copy for VA." See AR 27-55, Figure 4-2, for a sample format of a document authentication.

3. Determine if witnesses will be needed to complete the notarization.

4. Ensure that the client is acting of their own free will.

NOTE: Individuals authorized to provide notarial services will not:

a. Notarize unsigned documents.

b. Certify the authenticity of public, official, registered, or court records or documents, nor issue certified copies of such documents or records unless allowed to do so under AR 27-55.

c. Take an affidavit or an acknowledgment unless the individual who signed the document is actually in their presence. If an oath or affirmation is authorized or required, the notary will administer the oath or affirmation to the individual in person.

d. Execute a notarial certificate containing a statement known by the notary to be false.

e. Perform any action with intent to deceive, such as predating or postdating a document.

f. Authenticate the signature of an individual who did not personally appear before the notary at the time his or her signature was affixed to the document unless the document is resigned in the presence of the notary. (See AR 27-55, para 4-3c).

g. Perform a notarial act or take an acknowledgment when the notary is a party to, or directly interested in the transaction.

h. Serve as the only witness and as a notary in the same transaction. A notary may sign as one of several witnesses as well as the notary where permitted by law such as in real estate transactions in Georgia, North Carolina, and South Carolina.

i. Solemnize marriages as part of their official notarial duties, even if authorized to do so under a state or foreign law granting notaries such authority.

j. Provide legal advice unless the notary is also an attorney. While a notary may draft an appropriate power of attorney and answer basic questions concerning that draft, the non-attorney notary may not provide legal advice nor interpretation.

k. Notarize a general power of attorney before determining that the client has received advice from an attorney on the nature and effect of a general power of attorney. This advice may be provided to the client in person, via telephone, in a videotaped briefing, or by a written handout prepared by the attorney.

l. Perform notarial services as an RC enlisted notary in a non-duty status without the prior approval of their supervising SJA.

Additionally:

a. Notarial authority will not be delegated to another person.

b. No notary will perform, or be ordered or otherwise required to perform a notarial act that the notary believes:

1. Is for a transaction that the notary knows or suspects is illegal, false, or deceptive.

2. Is for a person who is being coerced.

3. Is for a person whose demeanor causes compelling doubts about whether the person knows the consequences of the transaction requiring the notarial act.

4. Impugns or compromises the notary's impartiality.

5. Is prohibited under this regulation.

5. Verify that the document being notarized pertains to the client being serviced (check their I.D. against the document). Ensure the document is completely filled out and that any blank spaces are filled in with "N/A" to make sure that the document cannot be altered.

6. Determine if an "Acknowledgement" is required.

NOTE: An acknowledgment is a formal declaration or admission made by the free act or deed of an individual and executed before a properly authorized official (notary). An acknowledgment includes a certificate or written evidence of the act of acknowledgment made by the notary, as well as the act itself. Acknowledgments relate primarily to documents affecting land, and many state statutes require that deeds, mortgages, leases, and powers of attorney to convey land or an interest therein be acknowledged.

7. Have the client sign the document in the notary's presence. If the individual signed the document outside of the notary's presence have the client re-sign the document.

8. Ensure the document is dated. Post-dating and pre-dating is unauthorized.

NOTE: Violation of the rules set forth in AR 27-55 is punishable under Article 92 or Article 107, UCMJ.

9. All notarial services performed under the authority of 10 USC 1044a will also be accompanied by a citation to the authority of the individual to provide the service. For example:

“Under the Provisions of AR 27-55, paragraph 2-2(a)(2)” (would be used for someone possessing a primary MOS of 27D).

10. Fill out or have the client fill out the notary log.

NOTE: A notary log is required to be kept by all notaries. The log is not subject to Army filing procedures and should remain with the notary at all times. A notary log should include the name of the client, their signature, the type of document being notarized, the date, and the location where the notarization was done.

References

1. AR 27-55
2. AR 27-3

Additional notary information: Civilian employees reimbursed by the United States Government for the costs and expenses associated with obtaining and using their civil notarial commission and seal in performance of their official duties are not prohibited from providing notarial services privately, as long as such services are provided without the use of government property when they are off-duty and off the installation. No fee may be paid to, or received by, Army personnel for providing notarial services during the course of their duties under this regulation.

Performance Measures: Use AR 27-55 while taking this test.

1. True or False: A PV2 (E2) can notarize documents if authorized by the SJA. Provide a cite for your answer.
2. What U.S. Code provides the authority for certain Army personnel to be notaries?
3. Soldiers performing services as a notary should be under the immediate supervision of an attorney. Define immediate supervision.
4. True or False: A 27D in the rank of SFC (E7) has been granted the authority to be a notary IAW AR 27-55, paragraph 1-7. The SFC can administer the oath to an officer swearing to the charges of a general court-martial in block 11 of DD Form 458 Charge Sheet. Provide a cite for your answer. You may need to look in the MCM.
5. When is it permissible to notarize an unsigned document? Provide a cite for your answer.
6. True or False: It is never acceptable to have a person re-sign a document that was originally signed outside of the notary's presence. Provide a cite for your answer.
7. True or False: It is acceptable for enlisted reserve component personnel to conduct notary services IAW AR 27-55 in a non-duty status as long as they have prior approval from their SJA. Provide a cite for your answer.
8. True or False: Notary Logs must be filed IAW Army regulation. Provide a cite for your answer.
9. True or False: It is never acceptable to certify a copy of a public document or record. Provide a cite for your answer.
10. Define "Apostille."

See Appendix B-1 for the answers to this exercise.

Use Quickscribe to Prepare a Power of Attorney.

Conditions: You are a paralegal working at the Soldier Readiness Processing center and you have 400 soldiers lined up outside your door waiting to get a power of attorney (POA).

Performance Steps:

NOTE: A power of attorney is an instrument in writing by which a person (the principal) appoints another as his or her agent and grants the agent the authority to perform certain specified acts or kinds of acts on behalf of the principal.

1. Determine whether the client needs a general or special power of attorney. It is recommended that most clients get special power of attorneys.

NOTE: A General POA gives very broad power covering a wide variety of topics. A Special POA covers one or more topics but is typically limited in its intent.

2. Open Microsoft Word and select the red “D” for Quickscribe. Quickscribe is also referred to as Hot Docs.

NOTE: Quickscribe is available for [download via JAGCNet](#).

3. If the client is requesting a general power of attorney ensure that they are counseled by an attorney concerning the nature and effect of a general power of attorney. Use one of the following methods:

- a. In person.
- b. Via telephone.
- c. Videotape briefing.
- d. Written handout on the nature and effect of a general power of attorney.

4. Determine whether the power of attorney is going to be durable and/or springing or not.

NOTE: Durable powers of attorney are a written instrument by which a person (the principal) appoints another as his agent and by which the principal grants the agent the authority to perform certain specified acts or kinds of acts on behalf of the principal, and which specifies the authority conferred will either:

- a. *Not be affected by the subsequent disability or incapacity of the principal.*
- b. *Springing means the POA will become effective upon the disability or incapacity of the principal.*

5. Scroll through the open library box until you find the folder called power of attorney. Select this folder and then select the power of attorney file.

NOTE: There is no written guidance as to how long a power of attorney can be valid for. Many installations and legal assistance offices set internal policies on expiration dates to protect the grantor against abuse. A power of attorney always loses authority upon death of the grantor.

6. Follow the steps using Quickscribe inputting information as necessary.

NOTE: Using Quickscribe is not mandatory for preparing power of attorneys but it is a quick and accurate tool.

7. All military power of attorneys will have a heading in bold letters identifying it as either a general or special power of attorney. The following preamble will be directly below the heading:

This is a military power of attorney prepared pursuant to Title 10, United States Code, Section 1044b and executed by a person authorized to receive legal assistance from the military services. Federal law exempts this power of attorney from any requirement of form, substance, formality, or recording that is prescribed for powers of attorney under the laws of a state, the District of Columbia, or a territory, commonwealth, or possession of the United States. Federal law specifies that this power of attorney shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the jurisdiction where it is presented.

KNOW ALL PERSONS BY THESE PRESENTS

NOTE: Title 10 United States Code, Section 1044b covers military powers of attorney. A military power of attorney is exempt from any requirement of form, substance, formality, or recording that is provided for powers of attorney under the laws of a State, and shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the State concerned. For purposes of this section, a military power of attorney is any general or special power of attorney that is notarized in accordance with section 1044a of Title 10 USC or other applicable State or Federal law.

8. There is no requirement to stamp or seal a military power of attorney. However, stamping or applying a raised seal will enhance the acceptance and professional look of the power of attorney and is desirable.

9. Notarize the power of attorney. Ensure the authority line is entered for a military notary directly below the notary's name. Quote the paragraph in AR 27-55 that gives the individual the notary power. For example: AR 27-55 para. 2-2(a)(2).

NOTE: Many legal assistance offices provide fill-in-the-blank style power of attorneys, this method is acceptable and in complete compliance with Title 10 USC 1044b.

References

1. AR 27-55
2. AR 27-3
3. Quickscribe
4. Title 10 USC 1044

Performance Measures:

Use the following situation to prepare a special power of attorney. Using Quickscribe is preferred but not mandatory.

1. The client is SPC JOE T. SOLDIER, a male active duty soldier.
2. Do not use the social security number.
3. SPC Soldier is currently stationed at Fort Atterbury, IN 46124-9000, where the POA will be executed.
4. Execution will be the "today." (the day you actually perform this task)
5. It will expire one year from today's date.
6. SPC Soldier is giving the POA to MRS. MOTHER O. SOLDIER, of Carrabassett Valley, Maine.
7. SPC SOLDIER wants to grant her the authority to cash checks, ship and receive household goods, and register his 2002 Ford Ranger Vehicle ID # ABC1238765.
8. The POA will be durable but not springing. There are no witnesses required and the notary will SFC JACK JEFFERSON, under AR 27-55 para. 2-2(a)(3).

See Appendix B-2 for the answers to this exercise.

Process Voluntary Separation under Chapter 6 Dependency/Hardship .

Conditions: You are a paralegal working at the battalion level or at the installation legal assistance office. A soldier in your unit has asked for information on how to prepare a request for voluntary separation under Chapter 6, AR 635-200.

Performance Steps:

NOTE: Nothing in this lesson should prevent a soldier who is seeking voluntary separation from consulting with an attorney. Paralegals provide guidance as to the requirements of the regulation and the information that should be included in a separation request packet.

1. Determine if the dependency or hardship exists IAW AR 635-200, Chapter 6.

NOTE: Dependency exists when death or disability of a member of a soldier's (or spouse's) immediate family causes that member to rely upon the soldier for principal care or support. See AR 635-200, paragraph 6-5 for definition of soldier's "immediate family."

Hardship exists when in circumstances not involving death or disability of a member of the soldier's (or spouse's) immediate family, separation from the Service will materially affect the care or support of the family by alleviating undue and genuine hardship.

2. Determine if the soldier is eligible to submit a request for separation IAW AR 635-200, paragraph 6-6.

3. Ensure the application for separation is from the soldier and in writing to his/her commanding officer. (See AR 635-200, para. 6-6, for additional guidance when a soldier requests separation while temporarily in the United States on leave or TDY). Use of DA Form 4187 is authorized for this purpose.

4. Ensure the commander forwarding the request to the separation authority includes the following information with his/her recommendation:

- a. amount and type of allotments along with the name and relationship of each allottee.

- b. a statement whether a determination of dependency for benefits has been requested and the decision of the Allotments and Deposits Operations, Defense Finance and Accounting Center.

- c. date of current enlistment, entry on AD and ETS.

- d. whether the applicant is under charges, in confinement, or under investigation or consideration for involuntary separation per AR 635-200 or AR 380-67.

5. Include, if required, the following affidavits with the separation request:

a. a personal request for separation explaining the nature of the hardship condition and what the soldier intends to do to alleviate it.

b. an affidavit or statement by, or on behalf of, the soldier's dependents substantiating the dependency or hardship claim.

c. affidavits by at least two agencies or individuals, other than members of the soldier's family, substantiating the dependency or hardship claim, it can be a legal assistance attorney.

d. additional evidence may be required as follows:

1. when the basis for the application is financial difficulty, a detailed statement is required to establish the monthly income and expenses of the family.

2. when the basis for the application is death of a member of the soldier's family, a death certificate or other valid proof of death should be furnished.

3. when the basis for the application is disability of a member of the soldier's family, a physician's certificate should be furnished showing the diagnosis, prognosis, and date of disability.

(a) preprinted medical statement forms, which require only a physician's signature, will not be issued or used for hardship applications.

(b) the physician will prepare medical statements and certificates.

4. when the soldier requests separation to support members of his/her family, other than spouse or children, the application should show the names and addresses of other members of the family, and proof that they cannot aid in the care of their family should be furnished.

5. When the basis for separation is the soldier's parenthood, supporting evidence will be in affidavit form.

(a) evidence will support the applicant's claim that unexpected circumstances, or circumstances beyond his/her control, have occurred since acquired parenthood that prevent fulfillment of military obligations without neglect of the child.

(b) affidavits from the soldier's immediate commander or officer who is the job supervisor, as appropriate, will be considered sufficient to substantiate the applicant's claim.

6. Compile all necessary affidavits, DA Form 4187 requesting separation, and information pertaining to paragraph 4 above for submission to the commander. The SPCMCA is the

approval authority. Each subordinate commander will make a recommendation as to separation.

7. A characterization of service as honorable is typical, however, a characterization of service as general (under honorable conditions) is authorized if the notification procedure is used.

6. The separation authority will:

- a. approve the separation or;
- b. disapprove the separation and provide specific written reasons as to why it was disapproved.

NOTE: Requests for supplemental factual information pertaining to applications for separation of soldiers because of dependency or hardship may be made to the American Red Cross. Such requests originating within military agencies will be restricted to specific information when probable separation is warranted. Soldiers or their dependents may request local chapters of the American Red Cross to assist in obtaining necessary evidence to substantiate applications for separation. The American Red Cross does not, however, make formal reports to military agencies unless requested by appropriate military commanders.

References

AR 635-200

For an example of what the DA Form 4187 could look like refer to Appendix B-3.

Performance Measures: None.

Process Voluntary Separation Under Chapter 8 Pregnancy.

Conditions: You are a paralegal working at the battalion level or at the installation legal assistance office. A soldier in your unit has asked for information on how to prepare a request for voluntary separation under Chapter 8, AR 635-200.

Performance Steps:

1. The soldier should be examined for pregnancy and be given a complete medical examination. Standard Form (SF) 88 (Report of Medical Examination) and SF 93 (Medical Record–Report of Medical History) will be used. The pregnancy diagnosis will be certified in writing by a physician on duty at an Armed Forces medical treatment facility as soon as possible. The certificate will be sent to the separation authority as an enclosure to the request for separation if the enlisted woman applies for separation.

2. Ensure the soldier is counseled by her commander IAW AR 635-200, Chapter 8, Section II and that the following steps are taken during the pregnancy counseling session:

a. The unit commander will explain that the purpose of the counseling is to provide information concerning options, entitlements, and responsibilities.

b. Upon request, she may be separated. She may request a specific separation date; however, the separation authority and her military physician will determine the separation date. The date must not be later than 30 days before the expected date of delivery or the latest date her military physician will authorize her to travel to her home of record or entry on duty destination, whichever is earlier.

c. That the separation authority will approve the request.

d. That she may elect to remain on active duty.

e. The soldier will be granted at least 7 days to consider the options available.

NOTE: If the soldier originally elects to stay on active duty and subsequently decides she would like to be separated, the separation authority must still separate her. See AR 635-200, paragraph 8-8g.

3. Verify the soldier has filled out DA Form 4187 requesting separation. Ensure that all necessary documents are attached to the packet and forwarded to the company level commander.

4. The company commander should inspect the packet for completeness and may attach a memorandum to the separation authority if desired.

5. Forward the separation packet to the separation authority. The separation authority for Chapter 8 is the SCMCA.

NOTE: An honorable characterization of service is typical for this separation; however, a general (under honorable conditions) discharge is authorized if the notification procedure is used.

6. The separation authority must approve the separation.

NOTE: Counseling concerning earned education benefits is required by law for Chapter 8, that involve separation as an exception to policy more than 90 days before ETS. Separation authorities will take an active role in this counseling process as follows:

a. Soldiers with less than 20 months of a 24-month initial enlistment, and less than 30 months of a 36-month-or longer initial enlistment at the time of separation must be counseled that loss of accrued benefits will occur and that monies deducted from pay are not refundable.

b. Approval of separation under these provisions is contingent upon this counseling, and a statement of understanding must be included in the approval packet.

References

1. AR 635-200
2. AR 40-3
3. AR 635-40

Performance Measures: None.

For an example of what the DA Form 4187 could look like refer to Appendix B-4.

Information Paper: Wills, Advanced Medical Directives, Health Care POAs.

Will - A will is a legal document you use to dispose of your property at your death. It may also name people to do important jobs, such as administrator of your estate or guardians for your children. The maker of the will is called the testator. To be valid, a will must comply with specific legal requirements. If you die without a will, the intestacy law of the state where you were domiciled at death will determine who should receive your property. Your domicile is the state where you are a legal resident and is not necessarily the state where you resided or lived before your death.

If you leave no valid will, the estate will be divided according to the "intestacy statutes." This generally means your spouse and child(ren) inherit your property or estate. If you die without a surviving spouse or child(ren), then under State law, certain other blood relatives receive the estate. This division can become complicated. These same laws also specify who will be in charge of the estate (called your personal representative or executor) and guide a judge in deciding who will be guardians for children. These laws provide little flexibility for special needs or family security, which is a good case for being sure to write a will.

Advance Medical Directives - Today, many states recognize advance medical directives (AMDs) or "living wills." They really are not "wills" at all. An AMD is a document you create while healthy that expresses your desires concerning the medical treatment you wish to receive if you are incapable of making such a decision. It can also be used to designate another person to make the decision for you in such a situation. An AMD lawfully prepared by a legal assistance attorney has full effect in all 50 states, the District of Columbia, and Puerto Rico, according to 10 USC 1044c.

Under the Patient Self Determination Act of 1990, every adult in the United States has the legal right to consent to or refuse medical treatment. All medical facilities receiving Medicare or Medicaid benefits must tell their patients about this law. Making your wishes known about the treatment you would want if you are incapacitated can be very helpful to doctors and to your family. You can do that in an AMD. You may prepare one when you check into a hospital but you are not required to have one to receive care, treatment, or admission.

If you become unable to make decisions concerning your medical treatment, another person, called an "agent," may make such decisions for you. This person should know your desires concerning medical treatment, so that he or she can act on your behalf. If no arrangements are made for medical directives and you become incapacitated, then the court may appoint a guardian for you. Signing advanced medical directives does not take away your right to decide on treatment, if you are able to do so.

Be sure to discuss your wishes and beliefs concerning medical treatment with your doctor, family and agent. Make copies of your advance directives for your doctor's files, agent, family and, if applicable, your health care facility. Discuss the policies of your health care

provider and be sure they are compatible with your own beliefs and that your wishes will be honored.

An AMD has three purposes: It gives your doctor your instructions about life sustaining procedures, artificial nourishment, and organ donation. If your doctor cannot, or will not, carry out your wishes, he or she must transfer you to a doctor who will do as you direct. The AMD you sign instructs your doctor to withhold or withdraw life-sustaining procedures in the event that at some future time, you are:

- a. Terminally ill.
- b. Have been unconscious, comatose or otherwise incompetent for a specific period of time of no less than 48 hours.
- c. Unable to make or communicate responsible decisions about your care.

"Life sustaining procedures" usually means any medical procedure or intervention that would only prolong the dying process. "Terminally ill" usually means an incurable or irreversible condition with no possibility of recovery, as agreed upon by two doctors in writing.

An AMD can also direct your doctor to withhold or withdraw artificial nourishment if it is the only medical procedure being provided. If a doctor determines this will cause you pain, then he/she will give you enough nourishment to alleviate pain. Through your AMD, you can direct that artificial nourishment:

- a. Be discontinued immediately.
- b. Be given to you for the time period you specify in the document.
- c. Not ever be withheld.

You must clearly indicate only one of these choices in your AMD.

An AMD can also contain a written statement indicating your decision about organ and tissue donation. Many states also permit this information to be included on your driver's license.

Any competent person 18 years of age or older may execute an AMD. If you are physically unable to sign the document, then you can direct someone else to sign it for you. Such person cannot be:

- a. Your doctor.
- b. The doctor's employee or an employee of a health care facility where you are staying.

- c. Any person to whom you owe money.
- d. Any person who believes he/she is entitled to your estate on your death.

It is best to sign your own AMD. It should usually be witnessed by two people. None of the people listed above can witness the AMD.

An AMD can be destroyed any time you change your mind. You can do this by telling someone, revoking it in writing, or by destroying the document. Let your doctor, family members, or anyone who has a copy of it know that you have destroyed it.

Since it is impossible to predict every possible contingency in an AMD, having both a living will and a Health Care Power of Attorney enables you to handle other kinds of disability or situations where it is not certain that you are terminally ill or your doctor or state law fail to give your wishes due appropriate consideration.

Although military members and other persons eligible to receive legal assistance are not required to use a particular state-specific form, you may use Partnership for Caring's site to obtain an AMD for a particular State.

Advantages to having an AMD:

- a. Difficult decisions about future care are made while you are competent, alert, and not sick.
- b. Your directions allow you to die under circumstances you have chosen. It makes your wishes clear in the event of a dispute as to what you might have wanted.
- c. An AMD removes the burden of decisions having to be made by grieving loved ones when you are dying.
- d. An AMD can reduce medical expenses.
- e. An AMD states your desires regarding organ donation at your death.

Disadvantages to having a AMD:

- a. An AMD is effective in a very narrow set of circumstances.
- b. The decisions you made may be hard for your family, and create disharmony.
- c. A parent, adult child, spouse, or agent under a power of attorney can challenge the validity of the AMD in court.
- d. Acceptance out-of-state may be a problem.

Healthcare Power of Attorney - A special kind of durable power of attorney called a health-care power of attorney (HCPA) deals with health-care planning. In it you appoint someone else to make health-care decisions for you, including, if you wish, the decision to stop intravenous feeding or the respirator in cases of brain death. The form can be used to make decisions about things like nursing, home care, surgery, and artificial feeding. Since it is impossible to predict every possible contingency in an advance medical directive, having both a living will and an HCPA enables you to handle other kinds of disability or situation where it is not certain that you are terminally ill, or your doctor or state law fail to give your wishes due weight. It is better to have a trusted relative or friend make the call.

Finally, despite recent changes in the law, many doctors and nurses are still reluctant to turn off life support even if that is what the patient wants. An advocate can make your intentions and desires clear. Obviously, decisions as important as these should be discussed with your agent in advance. The agent may be a spouse, child or close friend. You should try to talk about various contingencies that might arise and what he or she should do in each case.

Make sure you put a copy in your medical record. Since it is so much more flexible than a living will, the HCPA is a very useful document that could save you and your family much anxiety, grief, and money.

You can revise or revoke the HCPA (or the living will) at any time, including during a terminal illness, as long as you are competent and follow the procedures set out in your state's law. When you change or revoke the HCPA, notify the people to whom you gave the copies, preferably in writing.

DL Wills Program - On 25 September 1999, the U.S. Army JAG Corps purchased a license to install Attorneys' Computer Network, Inc. "Drafting Libraries - Military Version Wills Library" (DL Wills - Military) on 2000 computer terminals. Effective 1 October 2000, this software program is the Legal Assistance minimum standard for preparing wills and estate plans. Legal Assistance personnel providing estate planning assistance under provisions of AR 27-3, Legal Assistance, will use DL Wills - Military (or commercial equivalent software that has the capability to prepare a disclaimer credit shelter trust). Prior legacy programs (e.g., Minuteman, Patriot Expert Systems - Wills) are no longer supported or authorized for use after 1 October 2000. DL Wills may be installed on the computer terminal of any authorized Army, Army Reserve, or Army National Guard Legal Assistance provider. The JAG Corps may not install the Wills Library on more than 2000 computer terminals. Therefore, each installation of the Wills Library must be reported. Report the number of DL - [Wills Library installations via JAGCNet](#).

Downloading and Registering DL Wills:

To download the software from the JAGCNet web site, visit the following web page:

<http://www.jagcnet.army.mil/downloads>

When prompted, enter your JAGCNet user name and password.

Before installing DL Wills, you may want to read instructions provided on the download page. On the left half of the page, under JAGC Applications Downloads, there are DL Wills related links. Click the link "Additional files & instructions for DL Wills". On this page there is a PowerPoint file illustrating how to configure attorney information during the software installation.

Registering DL Wills: Please remember to register the number of computers you install DL Wills on. If you are re-installing or upgrading existing copies of DL Wills, you need not register again. To report new installations, visit: <http://www.jagcnet.army.mil/LA-DLWills> or click the link on the download page to "Report DL Wills Installations". Click "Choose Office" to add a report document or select an existing report to update.

Executing a will:

Army Regulation 27-3, para 3-6(b)(2), requires an attorney supervise every will execution ceremony

1. Introduce yourself, the notary, and the witnesses. The notary should conduct the ceremony. The supervising attorney makes sure the ceremony is performed properly and reviews each Will before the Testator leaves the office. The attorney should explain the nature of the ceremony. Explain that the questions asked are necessary to ensure a properly executed Will that a Probate Court will accept without one or more of the witnesses coming to court to testify. After these introductory explanations are completed the Notary should conduct steps 2-5 below.

2. Preparing to Sign the Will. The Testator should show his/her identification card to the Notary and the Witnesses. The Notary should ask the following questions of the Testator and wait for an affirmative oral response after each query.

Are you (name on the Will)?

Have you read this document? (pointing to the Will)

Is this your Last Will and Testament?

Does this document properly dispose of your estate and assets, according to your wishes, in the event of your death?

Would you like these two people (name the witnesses) to act as witnesses to your signature on this document?

Would you like (name the notary) to notarize the signatures on this document?

Are you at least 18 years of age?

Do you consider yourself to be of sound and disposing mind?

Have you taken any medication or other substance which may affect your judgment?

Are you acting of your own free will?

3. Signing the Will. Initialing each page of the Will is NOT a legal requirement. It serves only to integrate the Will. If your office chooses to have Testators initial each page then have them do that first (Note: be sure this is in compliance with the Testator's state because state law may stipulate no initials or signatures except on the signature page [e.g., New York]) and then sign the Will at the end of the document. DO NOT let the Testator sign the Attestation Clause or Self Proving Clause yet.

a. If the Testator initials each page then have each of the Witnesses initial each page (keeping in mind the Note above) of the Will and sign the signature page. DO NOT let the witnesses sign the Attestation Clause or Self-Proving Clause yet.

b. If your office chooses not to have Testators initial each page for integration purposes, just have the Testator sign at the end of the Will in the presence of the Witnesses.

c. If the Testator only signs at the end of the Will then have the Witnesses only sign the signature page after they witness the Testator sign.

4. Swearing the Testator. When the Will is signed and witnessed, turn to the Testator, ask him to raise his right hand and have the Notary administer the appropriate oath: (Note: If the Testator wants to swear choose "swear" and "so help you God"; if the Testator wants to affirm use only "affirm".)

Do you solemnly (swear) (affirm) that you are the same _____ (Name from the Will) who signed this document as your Last Will and Testament; that you signed this document in the presence and hearing of these two witnesses; that the witnesses each signed in the presence and hearing of one another and of you? Do you further swear that you are at least 18 years of age or older, of sound and disposing mind, acting here today of your own free will, and are under no undue influence or coercion from any source, (so help you God)?

a. After the oath the Testator may sign the Attestation or Self Proving Clause.

b. Note: every state does not require the Testator to sign the attestation clause, so this would not be applicable in those states)

5. Swearing the Witnesses. NOTE: The Witnesses generally do not know the Testator well enough to swear or affirm that he is 18, of sound mind or acting on his or her own. They can, however, swear or affirm that to the best of their knowledge and belief he is. They can form this knowledge and belief based on their opportunity to hear the Testator's responses to the questions in para 2 above, and their observations of the Testator before signing the Will. Therefore, it is important that you not ask them to swear that they "know" that he is 18, of sound mind, etc.

a. Next, the Notary administers the appropriate oath to the Witnesses:
(Note: If a Witness wants to swear choose "swear" and "so help you God"; if a Witness wants to affirm use only "affirm".)

Do you solemnly (swear) (affirm) that you are the same _____ (name of person) and _____ (name of person) who served as witnesses to the Last Will and Testament of (Name of Testator); that you each signed this document as witnesses in the presence and hearing of the Testator and of one another; and, that the Testator signed in the presence and hearing of each of you? Do you further swear that to the best of your knowledge and belief, the Testator is at least 18 years of age or older, is of sound and disposing mind and is acting here today of his free will and under no undue influence or coercion from any source, (so help you God)?

b. After the oath the Witnesses may sign the Attestation Clause or Self Proving Clause and the Notary can notarize the Will.

6. Mass Will Executions. You should try to do Will executions for one person or one couple at a time. Mass will executions (defined in AR 27-3 as more than 5 wills at a time) are strongly discouraged.

a. However, in time of mass deployments, when simultaneous multiple will executions are necessary, modify the procedure above for more than one client at a time. Have the Notary ask the first four questions listed in para 2 above of each Testator, then ask the remaining questions to the group. Be sure there is an affirmative oral response from each of them. When it comes to the oath in para 4 above, have them raise their right hands and have the Notary administer the appropriate oath:

Do you solemnly (swear) (affirm) that you are the same (Client 1), (Client 2), (Client 3) who signed these documents as your Last Wills and Testaments; that you each signed in the presence and hearing of these two witnesses, (name) and (name); and that they each signed in the presence and hearing of each of you? Do you each further (swear) (affirm) that you are at least 18 years of age of sound and disposing mind, acting here today of your own free will, and are under no undue influence or coercion from any source, (so help you God)?

b. The same procedures may be used for the multiple Witnesses. The Notary should ask if they swear or affirm that they witnessed the signatures of each Testator; that they each signed each Will in the presence and hearing of the Testator and of one another, etc. then have the Notary administer the appropriate oath:

Do you solemnly (swear) (affirm) that you are the same (name of person) and (name of person) who served as witnesses to the Last Will and Testament of these Testators; that you each signed each document as witnesses in the presence and hearing of the Testator and of one another; and, that the Testator signed in the presence and hearing of each of you? Do you further (swear) (affirm) that to the best of your knowledge and belief, each Testator is at least 18 years of age or older, is of sound and disposing mind and is acting here today of his free will and under no undue influence or coercion from any source, (so help you God)?

7. Post Execution Briefing. The supervising attorney should conclude the execution ceremony with a short briefing about safeguarding the will. Make it clear to the Testator that the JAG office does not maintain the Will or generally even a copy of the Will. Impress upon the Testator that the Executor/Personal Representative should know where the original Will is kept and have access to that place. Tell the Testator to periodically review the Will and consider updating the Will in the event of significant life changes (divorce, marriage, birth or a child, death of spouse, or significant increase in financial worth).

-END-

Chapter 3



Claims

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Process Personnel Claims through Carrier Notification.

Conditions: Given a requirement to process a personnel claim through carrier notification while serving as a paralegal in a claims office.

Performance Steps:

NOTE: The Personnel Claims Act limits payment to losses incurred incident to service. Under this Act, "incident to service" is a broad term that encompasses the circumstances of military living, such as frequent moves pursuant to orders, assignment to quarters, and duty in foreign countries.

1. Determine if the person is a proper claimant IAW DA Pam 27-162, paragraph 11-4.
2. Determine if the type of claim is payable IAW DA Pam 27-162, paragraphs 11-5 and 11-6.

NOTE: Except in the case of Article 139 claims, when a claim is payable under one or more statutes the Personnel Claim Act will be used.

3. Determine whether the claim was submitted within the statute of limitations (2 years from the time the claim accrues, DA Pam 27-162 paragraph 11-7).

*NOTE: For personnel claims any written demand for compensation may be considered a claim, even if no specific sum is mentioned or supporting documentation provided. **At no time will a claimant be denied the opportunity to submit a claim because a lack of substantiation.***

4. Determine whether the claim is cognizable IAW AR 27-20 and DA Pam 27-162.

NOTE: Cognizable – capable of being examined.

5. Determine if the small claims procedure can be used. The small claims procedure applies to claims that can be settled for less than \$1,000 (although the claimant may claim more than \$1,000) and that do not require extensive investigation. See DA Pam 27-162, paragraph 11-10.

NOTE: These findings are necessary to award compensation under the PCA:

- a. The claimant is a proper claimant.*
- b. The loss was incident to the claimant's service.*
- c. The type of property claimed (the lost or damaged tangible personal property and compensable associated expenses) and the amount or quantity possessed were reasonable or useful under the attendant circumstances.*
- d. The evidence substantiates ownership and value of the property, and the fact of loss or damage as claimed.*
- e. There is no bar to payment, such as a violation of the statute of limitations.*

f. The amount otherwise allowable has been reduced to reflect compensation from other sources, including insurance and lost potential recovery. If private insurance is involved, generally the claimant must settle with the insurance company first. The claim usually will be held in suspense until the insurance company takes action. A CJA or claims attorney may pay a claim before settlement with an insurance company if the claimant shows good cause.

6. Completion of DD Form 1840. The carrier must complete "Section A—General " which depicts the claimant's information and carrier's address. A continuation sheet may be used at delivery if there is insufficient room on the DD Form 1840 to list the damaged/missing items found at the time of delivery. Such a continuation sheet should be signed by the soldier and the carrier. The carrier should not use any other form to list damages or losses. If no damage or loss is recorded, the "Description of Loss or Damage" should state "none." Both the claimant (or the claimant's agent) and the delivering carrier's representative will complete Section B (record of loss or damage) and sign the form in blocks 14g and 15e.

7. A claimant must list additional shipment loss and damage noted after delivery on DD Form 1840-R (the reverse side of the DD Form 1840) and present it to the claims office within 70 days of delivery. Claims personnel will ensure that the carrier's address and other information from section A on DD Form 1840 are copied onto the DD Form 1840-R. Claims personnel must sign and dispatch the form and all continuation sheets to the carrier within 75 days of delivery, listing the date the form was sent. A second signed and dated copy is retained in the field claims office, and a third is returned to the claimant as a receipt. If the claimant should bring in the DD Form 1840/R on or after the 70th day, up to the 75th day, the 1840/R can be faxed to the carrier to ensure timely notifications, with the hard copy to follow via regular mail.

NOTE: DD Form 1840/1840R is provided by the carrier at delivery. DD Form 1840 is used to note damages at the time of delivery. DD Form 1840R is used for damages you discover after the carrier leaves.

8. Verify DD Form 1840 and 1840R have been completed and signed.

9. Provide the claimant with a signed copy of DD Form 1840R.

10. Forward the original DD Form 1840R (signed) to the carrier as soon as possible within 75 days from date of delivery IAW AR 27-20 and DA Pam 27-162.

11. File the remaining copy of DD Form 1840/1840R in the office suspense file IAW DA Pam 27-162.

12. Destroy DD Form 1840/1840R IAW AR 25-200-2 and DA Pam 27-162 if no claim is filed within two years from the date of dispatch of the DD Form 1840/1840R.

DD FORM 1842

17. ITEMS 1 - 8. Verify that entries identifying claimant are completed, ensure the information is current as some individuals start the paperwork several months prior to

submitting the completed claim. Additionally, ensure the information is legible; incorrectly inputted data will delay payment to the claimant.

18. ITEM 9. Verify that the "AMOUNT CLAIMED" block is completed, (very important!)

NOTE: Ensure that the amount claimed agrees with the total amount claimed on DD Form 1844.

19. ITEM 10. Verify the "CIRCUMSTANCES OF LOSS OR DAMAGE" contains an adequate description of who, what, when, where, why, and how loss, damage(s), or destruction occurred.

20. ITEMS 11 - 15. Verify the claimant marked the appropriate "YES" and "NO" columns corresponding to each of the items.

21. ITEM 17. Ensure the claimant's signature agrees with the "CLAIMANT'S NAME" in ITEM 1. If signed by an agent, ensure a copy of a power-of-attorney (or in the case of a spouse, any contemporaneous writing) authorizing the agent to sign for the claimant is attached.

22. ITEM 18. Ensure the form is dated.

23. Verify that the appropriate blocks of DD Form 1844 have been completed if used.

24. Ensure DD Form 1844 and/or substantiating documents are attached to the claim IAW AR 27-20.

INITIAL PROCESSING OF SUBMITTED CLAIM (Same for all claims regardless of type)

25. Ascertain claim number.

a. When the claim is received due to transfer from a different office, copy the claim record from the floppy disk database (TRANSFER.DBF) to append current ERCLAIM.DBF by using the Data Transfer Procedures submenu of the PCMP. The claim record will retain the claim number assigned when first opened by the originating office.

b. From the "PROCESS CLAIMS" submenu, create a new claim record in the PERCLAIM.DBF database by entering appropriate information in "BASIC DATA" group fields. A new claim number is generated automatically by the program. The new record will be saved to the database only if the field for claimant's name is not blank.

26. Write the claim number on claim or DD Form 1842 if used.

27. Prepare claim file IAW AR 27-20 and DA Pam 27-162:

a. On top left of folder, print the name of claimant.

b. On top right of folder, print the claim number as generated by PCMP (e.g., 99-141-0001 where "99" is fiscal year, "141" is office code, and "0001" is next claim sequence number).

28. Prepare the heading for the chronology sheet and include the chronology within claim file. Indicate on the chronology any problems identified concerning the claim, such as missing evidence or documents, companion claims, or any information that may assist in adjudication of claim.

29. Record claim information in the appropriate claims journal (DA Form 1667) IAW AR 27-20 and DA Pam 27-162 which is maintained separately (MARKS 27-20d).

PERSONNEL CLAIMS MANAGEMENT, AUTOMATION, AND REPORTS

30. Prepare claims correspondence (which may include a Personnel Claims Memorandum of Opinion) as directed by CJA or senior claims examiner.

31. Forward the claim file for adjudication.

32. Complete or verify the appropriate data entries for automated claim record are made accurately on a daily basis and that backup procedures are used as prompted by the program's "Process Claims" submenu after any selection of "Q" for quit.

33. Prepare a printout of the automated claim record as displayed on the computer monitor for attachment to the claim file; referred to as a "paper screen" IAW DA Pam 27-162.

34. Transfer claims IAW AR 27-20 and DA Pam 27-162.

a. Transfer claims submitted by personnel of different services and record the claim in the separate section of the Claims Journal.

b. Ensure that the last transaction recorded in the electronic claim record is the reason for transfer, forwarding or retirement of file (e.g., FR Forwarded for Recovery at USARCS; TA-Transfer Army; TS - Transfer (to another) Service; CC - Claim Closed and Reopened as Tort Claim).

35. Verify that personnel claim files are maintained/disposed of IAW DA Pam 27-162 and AR 25-400-2.

36. Ensure that all actions are recorded on chronology sheets and that all actions on claims paid, settled, denied or otherwise closed are recorded on DA Form 1667-R.

37. Ensure that monthly reporting procedures are followed IAW AR 27-20 and DA Pam 27-162.

ADJUDICATION OF CLAIM

DD Form 1844

38. In block 16, list any preexisting damage (PED) from the inventory sheets, this will be used to determine the appropriate amount due the claimant.

39. In block 19, list how the items were declared on the DD Form 1840 or 1840/R. If the item was noticed on the front of the 1840 put a "0" on the line that correlates to the item being claimed. The items noticed and listed on the 1840/R put an "R" on the line that correlates with the damaged item. This is important as the carrier has already taken responsibility for the items listed on the "0". Any item claimed on the DD Form 1844 that is not listed on the 1840 or 1840/R in NOT PAYABLE.

40. In block 25, list the amount due the claimant.

41. In block 26, use the adjudicator's codes to adjudicate the claim. These codes are listed in the DA Pam 27-162, table 11-1, at the end of the Depreciation Guide.

Performance Measures: None.

References

1. AR-27-20
2. DA Pam 27-162
3. AR 25-400-2

Process Carrier Recovery.

Conditions: Given a requirement to process carrier recovery while serving as a paralegal in the claims office.

Performance Steps:

1. Receive the claim file after adjudication and payment.
2. Review the file to ensure all required documentation is present. Coordinate with the transportation officer for necessary documents and/or inspections as applicable.
3. Ascertain whether action from a liable third party is required. Close the file if no recovery against third party exists or if the amount is less than \$25.00.
4. Ensure that proper notice (by use of DD Form 1840/1840-R) has been given to the responsible third party IAW DA Pam 27-162.
5. Examine shipment documents (Government Bill of Lading (GBL), inventory sheets, etc.) for legibility and completeness to assist in determinations. Contact the carrier for missing GBLs.
6. Determine the amount of liability IAW DA Pam 27-162, Chapter 3, and the Joint Military-Industry Table of Weights, and Depreciation Guides, based on type of shipment and form of release valuation for which carrier is liable.

NOTE: The type of shipment must be determined before the liability amount can be calculated.

7. Ensure all applicable portions of DD Form 1844 are completed IAW DA Pam 27-162.
8. Determine whether recovery action is to be processed locally, transferred, or forwarded for centralized recovery IAW AR 27-20 and DA Pam 27-162.
9. Ensure that the demand against the carrier (DD Form 1843) is properly prepared and that the demand packet is assembled IAW DA Pam 27-162.
10. Ensure that the unearned freight packet has been prepared and included within file when loss or destruction of personal property is attributable to the GBL carrier.

NOTE: The unearned freight packet is mailed after the demand against the carrier has been paid or settled when the recovery was locally processed or is included within the demand packet forwarded for centralized recovery or when an impasse has resulted.

11. For claims under \$1000.00 ensure to dispatch the demand on the carrier within 30 days. For claims over \$1000.00 the file must be transferred to USARCS (after a 30 day hold to allow the claimant the opportunity to reconsider).

12. Ensure settlement offers (from third parties) received in response to demands are accepted or rejected within 30 days.

NOTE: Coordinate decisions on whether to accept, reject, or compromise settlement offers with the NCOIC, Claims.

13. Ensure DD Form 1131 (Cash Collection Voucher) is prepared for payment checks received and that checks are secured in locked containers and delivered to the servicing FAO.

14. Ensure the offset action is processed IAW AR 27-20 and DA Pam 27-162 after 120 days have expired since date of dispatch of demand packet or upon impasse.

NOTE: Unearned freight letters are attached to requests for offset forwarded to USARCS or the appropriate local contracting officer. (e.g., Unearned freight letters are processed against GBL carriers ONLY, not local contractors.)

15. Ensure the chronology sheet is maintained throughout recovery processing, to include records of correspondence with carriers.

16. Ensure DA Form 1667 is annotated with all payment or transfer of recovery actions.

17. Ensure appropriate data entries and action codes are made to the automated claim record and that prompted back-up procedures are used IAW the PCMP User's Guide.

18. Ensure the transfer of files upon completion of delegated authority action IAW AR 25-400-2.

Performance Measures: None.

References

1. AR 27-20
2. DA Pam 27-162
3. AR 25-400-2

Process Claim Under Article 139, UCMJ.

Conditions: Given a requirement to process a claim submitted under the provisions of Article 139, UCMJ, while serving as a paralegal on a brigade staff or higher echelon.

Performance Steps:

NOTE: Article 139, UCMJ, provides an administrative mechanism for assessing and paying restitution to the victims of certain types of criminal offenses committed by military personnel subject to the UCMJ. Victims of these offenses often have no other adequate means of obtaining restitution. Article 139 ensures that a victim is compensated directly from the wrongdoer's military pay rather than from the United States Treasury.

1. Submitting the claim:

a. The claim must be submitted within 90 days of the incident that gave rise to it (unless delay is based on good cause as approved by SPCMCA).

b. The claim can be submitted orally or writing, however, it must be reduced to writing within 10 days of submission and must seek a specific sum amount.

2. Stamp or otherwise note on the claim the date the claim was received and the designation of the receiving command.

3. Verify that the claim is cognizable under Article 139, UCMJ, and AR 27-20, paragraph 9-4 and 9-5, or DA Pam 27-162, paragraphs 9-4 or 9-5.

NOTE: Article 139 may not be used to hold a soldier liable for negligent acts. Negligence is the failure to use the level of care that a reasonably prudent person would use under the same or similar circumstances.

4. Forward the claim within two days to the SPCMCA having UCMJ authority over the alleged offender

5. If the claim appears cognizable the SPCMCA will appoint an Investigating Officer within 4 days of receipt of the claim (see DA Pam 27-162 Figure 9-5 for an example of the appointment letter).

NOTE: If claim is made against soldiers of different SPCM jurisdictions, verify that claim was forwarded to GCMCA for designation of which SPCMCA will assume investigative responsibility.

6. Within 10 working days of appointment, the IO will complete the investigation. The SPCMCA may extend this ten-day period for good cause. The CJA or claims attorney should advise the IO before the investigation begins on the scope of the investigation, procedural steps to follow and restrictions on evidence.

NOTE: The IO will provide notification to the soldier against whom the claim is made. If the soldier makes a voluntary restitution to the claimant's full satisfaction, the claim will be dismissed.

7. The IO should submit findings and a recommendation to the SPCMCA on DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officers) and will address each of the following conditions for payment:

a. Whether the claim is brought by a proper claimant, in writing, and seeks a definite sum.

b. Whether the claim is brought within 90 days of the incident that gave rise to it, or the claimant has shown good cause for the delay.

c. Whether the claim seeks compensation for property belonging to the claimant that was wrongfully taken or willfully damaged by a member or members of the U.S. Army.

d. Whether the claim is meritorious in a specific amount.

8. Within five working days (which the SPCMCA may extend for good cause), the CJA or claims attorney will review the IO's findings and recommendation and will advise the SPCMCA whether they are legally sufficient and supported by the evidence (see DA Pam 27-162, Figure 9-7 for a sample of the legal review memorandum).

9. The SPCMCA may disapprove the claim regardless of the amount or, if the findings and recommendation are legally sufficient, approve it in an amount equal to or less than the amount recommended by the IO for claims of \$5,000 or less. The SPCMCA will notify both the soldier and claimant in writing of the decision and of their rights to request reconsideration. The SPCMCA will then delay final action on the claim for ten working days pending receipt of a request for reconsideration unless this delay will result in an injustice such as the discharge of the liable soldier from active duty and thus the Army's inability to disburse funds by pay.

10. Upon receipt of a request for reconsideration by either the claimant or a soldier who has been assessed liability, the approval authority will direct the legal advisor to provide a recommendation. If the request raises an issue of fact, the approval authority may appoint an IO to make further findings. If the approval authority contemplates modifying the decision, he or she shall provide all parties to the claim with notice and an opportunity to respond. The approval authority will record the basis upon which the decision is modified and notify all parties.

11. For claims between \$5,000 and \$10,000 the GCMCA is the deciding authority and above \$10,000 the authority belongs to the Commander, USARCS (United States Army Claims Service). Forward the claim as necessary.

12. Verify that the SPCMCA notified the claimant and any soldier against whom an assessment has been made of the action taken on the claim IAW AR 27-20.

13. Verify that collection action is taken on any soldier against whom an assessment is made IAW AR 27-20. See DA Pam 27-162, Figure 9-10, for an example of the letter used by the approval authority to the servicing finance office

14. Within ten working days of final action on the claim prepare a cover sheet for the claim and forward it, along with a copy of the claim, to the Commander, USARCS, ATTN: JACS–PC.

15. Maintain claim file IAW AR 27-20 and AR 25-400-2.

Performance Measures: None.

References

1. AR 27-20
2. AR 15-6
3. MCM
4. AR 25-50
5. AR 25-400-2
6. AR 310-50
7. DA Pam 27-162

Adjudicate Personal Property Claims.

Conditions: Given a requirement to adjudicate a personal property claim while serving as a paralegal in the claims office.

Performance Steps:

1. Receive the claim file for adjudication after data entries are made, to create an automated claim file.
2. Verify that the claimant is a proper party claimant IAW AR 27-20, Chapter 11.
3. Ensure that proper notice (by use of DD Form 1840/1840-R) has been given to the responsible third party IAW DA Pam 27-162.
4. Determine if the types, quantities, and ownership of property are payable or not payable. Verify--
 - a. Items claimed against types of property payable.
 - b. Ownership of property claimed.
 - c. Items claimed against the reasonable or useful rule.
 - d. Items claimed were damaged/lost incident to service and there was no contributory negligence on the part of the claimant, claimant's agent, or employee.
5. Ascertain whether any of the loss is covered by insurance or if the claimant had full replacement or increased value protection.
6. Verify that the items claimed are properly substantiated.
7. Verify that the claim file is complete IAW AR 27-20 and DA Pam 27-162.
8. Verify that the claimant adequately described the lost or damaged property in the appropriate blocks of DD Forms 1842 and 1844 and established ownership or lawful dominion and control of the property at the time of damage or loss.

DD FORM 1844

9. Verify that the claimant showed the date of acquisition of each article and its purchase or acquisition price.
10. Verify that the amount claimed for repair or replacement agrees with the documentary evidence if required.

11. Compute the amounts allowed for lost, damaged, or destroyed property IAW AR 27-20, Chapter 11, DA Pam 27-162, current Allowance and Depreciation Guide published by USARCS, and guidance provided through use of DA Pam 27-50 series (The Army Lawyer).

12. Enter the amount allowed for each line item in the appropriate block.

13. Enter in the appropriate blocks if the claim is for loss or damage during shipment/storage.

a. The origin contractor's name and date of the inventory.

b. Exceptions noted on the origin inventory.

c. Receiving contractor's name and date of the rider.

d. Exceptions noted by the receiving contractor.

e. Date of DD Form 1840/1840R and DD Form 1841.

f. Remarks, weight of the line item, and the amount of liability for the warehouse and/or carrier.

g. Comments if any.

14. Compute the totals and enter them in the appropriate blocks on the bottom of the last page.

15. Annotate chronology with explanations of amounts allowed/disallowed and reasons therefore. (Provides source document for the notification letter to claimant, Personnel Claims Memorandum of Opinion, and reconsideration determinations, as required).

16. Prepare (or forwards the file to the claims clerk) the front side of DD Form 1842.

17. Ensure DD Form 1842 (front side) is prepared correctly and is signed and dated.

Performance Measures: None.

References

1. AR 27-20
2. DA Pam 27-162

Process Tort Claims.

Conditions: You are a paralegal working at the installation claims office and have been tasked to assist in the investigation and processing of a federal tort claim against the United States.

Performance Steps:

NOTE: TORT – A private or civil wrong or injury, other than breach of contract, for which the court will provide a remedy in the form of an action for damages. A violation of a duty imposed by general law or otherwise upon all persons occupying the relation to each other which is involved in a given transaction. There must always be a violation of some duty owing to plaintiff, and generally such duty must arise by operation of law and not by mere agreement of the parties. Three elements of every tort action are existence of legal duty from defendant to plaintiff, breach of duty, and damage as proximate result. (as defined by Black's Law dictionary).

1. Identify potential claims which may indicate any liability on the part of the United States by reviewing various source documents shown below and indicated in DA Pam 27-162, Chapter 2.

- a. MP Blotter entries, MP and CID Reports.
- b. Serious Incident Reports.
- c. Emergency Room Logs.
- d. Requests for records or claim forms.
- e. Local Newspapers.
- f. I.G. inquiries and investigations.

NOTE: The claim begins when claims personnel learn of an incident, not when the claim is actually filed.

2. Ensure all incidents which may result in liability are recorded or (when possible) investigated immediately (to include visiting the scene of the incident, taking pictures, making sketches, or talking with anyone present who may have seen or heard the incident occur). Record any results on a Memorandum for Record (MFR), attach photographs, if applicable, and file for the period of the statute of limitations, plus six months.

3. Verify that the following information was stamped or otherwise written on the front of the claim when received:

- a. The date the claim was received.
- b. The designation of the receiving command or office.
- c. The initials of the person who received the claim.

NOTE: The claim may be any writing that contains a sum certain, signed by the claimant, and which contains enough information to allow the Army to begin investigating the incident which gave rise to the claim. Normally, a claim will be presented on a Standard Form (SF) 95 (Claim for Damage, Injury, or Death). When the claim is not presented on an SF 95, the claimant will be requested to complete an SF 95 to ease investigation and processing.

5. Verify the claim was submitted within time prescribed for filing IAW AR 27-20 para. 2-40 (Statute of Limitations).

NOTE: To be payable, a claim under any chapter must be filed no later than two years from the date of accrual as determined by Federal law. The accrual date is the date on which the claimant is aware of the injury and its cause. The claimant is not required to know of the negligent or wrongful nature of the act or omission giving rise to the claim. The date of filing is the date of receipt by the appropriate Federal agency, not the date of mailing.

6. Verify the claim is cognizable under AR 27-20 and the Federal Tort Claims Act (FTCA). Consult with a CJA or claims attorney if the claim is not apparently cognizable or for decision if claim appears cognizable under more than one claims statute.

7. Verify claimant is a "proper party" claimant (AR 27-20 para. 2-10).

8. Verify all items of SF 95 are completed IAW the instructions on the form. See DA Pam 27-162, Figure 2-6a, b, and c, for an example of how to properly fill out SF 95.

9. Verify the claim file is prepared, maintained and assembled IAW DA Pam 27-162, paragraph 2-14.

10. Prepare the "mirror file" if necessary IAW DA Pam 27-162, paragraph 2-15.

11. Determine, after consultation with CJA, whether the small claims procedure may be used to investigate and adjudicate the claim; i.e., for claims which may be settled for less than \$2,500.00.

12. Verify if receipt or rejection of the claim has been acknowledged; notify the CJA or claims attorney of deficiencies.

a. Attempt telephonic acknowledgment when possible, and prepare a memorandum of call for the file.

b. Prepare formal written acknowledgment by letter (except when not required, as in cases processed under the small claims procedure). When acknowledged by letter, include a copy of the claim showing receipt. Examples of these letters are contained in DA Pam 27-162, figures 2-9 and 2-10.

c. When received, file acknowledgment of letter.

13. Determine if the claim can be settled using small claims procedures IAW DA Pam 27-20, paragraph 2-17.

NOTE: Although their use is optional, small claims procedures should be used when a tort claim can be settled for \$2,500 or less. Small claims procedures should be used as much as possible. Many claims offices fail to use them because they believe tort claims are different and require more formal proof than do personnel claims. This practice contravenes the intent of AR 27-20.

14. Assist the CJA or claims attorney in a complete investigation of the claim, as directed, using DA Pam 27-162, Chapter 2, section IV.

15. Make investigative conclusions and sign DA Form 1668, as appropriate. Forward to CJA or claims attorney for review, signature, and subsequent attachment to SF 1145 (Voucher for Payment Under Federal Tort Claims Act) or file (in cases where denial is recommended).

a. Verify claim is processed for payment IAW AR 27-20 and DA Pam 27-162 to include obtaining settlement agreements.

b. Draft letters of denial or final offer for review and signature by CJA or claims attorney as appropriate.

c. Verify that no companion claim exists. If another claim that has not been settled arose from the same incident, consult with CJA or claims attorney prior to further processing of payment.

d. Dispatch payment or denial letters IAW AR 27-20 and DA Pam 27-162.

16. Ensure all "mirror file" documents are forwarded to USARCS AAO IAW DA Pam 27-162 on at least a weekly basis.

17. Ensure all actions on claims paid, settled, denied, or otherwise closed are recorded on DA Form 1667 (Claims Journal).

18. Enter, or verify the appropriate data entries are posted to the automated claim record and are made accurately on a daily basis. Verify that back-up procedures are used as prompted by the program's "Process Claims" submenu after any selection of "Q" for quit.

19. Verify tort claim files are maintained and disposed of IAW DA Pam 27-162.

20. Ensure monthly reporting procedures are followed IAW AR 27-20 and DA Pam 27-162.

References

1. AR 27-20
2. DA Pam 27-162

Process Affirmative Claims.

Conditions: Given a requirement to identify and process a claim in favor of the Government while serving as a paralegal in a claims office.

Performance Steps:

NOTE: This task contains performance measures that are automated. To maintain integrity of claims program and databases', claims offices may have a single person designated to serve as principal system administrator for automated data entry and generation of automated reports.

1. Identify potential claims in favor of the U.S. by reviewing various source documents shown below; forward any potential claims to the RJA for a decision.
 - a. MP Blotter entries and MP Reports.
 - b. Reports of survey.
 - c. Requests for records or other information which may indicate a claim in favor of the U.S.
 - d. Emergency Room records.
 - e. Patient Admission records.
2. Receive documents reviewed by attorney. Based on the RJA review and decision, note whether the identified affirmative or potential claim has been waived by the RJA.
3. If the RJA determines no claim exists or has been waived, file reviewed or completed documents.
4. If the RJA's decision is to assert the affirmative claim, coordinate or obtain proper category and action codes from RJA for automated database field entries.
5. Determine whether the claim has been transferred from different Army field office or other agency.
6. If the claim is being transferred in, copy the claim record from the floppy disk database SHIPAFF.DBF) to append the current AFFCLAIM.DBF by using the Data Transfer Procedures submenu of Affirmative Claims Management Program (ACMP).

NOTE: Do not attempt to change the claim number from that originally assigned to the transferred claim record.

7. Enter data to create a new claim record in the "AFFCLAIM.DBF" database file.

NOTE: An automated claim number is generated by the initial data entry in the "Key Descript" field.

- a. Enter "P" for property damage claims in "Type" field of "Basic Data" group.
 - b. Enter "M" for medical care recovery claims in "Type" field of "Basic Data" group.
 - c. Determine and enter the date on which the Government's assertion right terminates (e.g., 3-year Statute of Limitations when based on a tort).
 - d. Complete entries for the "Tortfeasor," "Action Data," and "Insurance Company" data groups as available.
 - e. Complete entries in "Supplemental Medical" and "Supplemental Property" screens as available.
8. Prepare the claim file IAW AR 27-20 and DA Pam 27-162.
 - a. On top left of folder, print name of injured party if medical care claim; brief description of property (e.g., "fence" or "street light"), if property damage claim.
 - b. On top right of folder, print claim number as generated by ACMP (e.g., 99-141-A001 where "99," is fiscal year, "141" is office code and "A001" is next claim sequence number).
 - c. On top center of folder, place MARKS file disposition instructions (27-20k or 27-20m).

NOTE: A "dummy" folder may be used IAW AR 25-400-2.

9. Prepare heading for chronology sheet and include the chronology within the claim file.
10. Record the asserted claim information on a separate claims journal (DA Form 1667).
11. Annotate the chronology sheet and DA Form 1667 with transferred claim information if applicable.
12. Respond to the RJA request that a form letter be prepared from the available templates in the ACMP. Use the new claim record and program templates to prepare a mail merge letter for the RJA's signature as appropriate. (e.g., If property claim, prepare letter to Tortfeasor making initial demand for payment of damages to U.S. property; Filename: P_TFRDMD.LTA.)
13. Include mail merge letter the in the claim file.
14. Forward the claim file to the RJA for investigation.

NOTE: Affirmative claims are investigated in the same manner as tort claims.

15. Determine whether responsibility for the claim should be transferred; coordinate with the RJA for approval.

a. If the claim is to be transferred intra-Army, enter office code for the appropriate Army field claims office in the automated claim record.

b. If the claim is to be transferred to a non-Army agency (e.g., Department of the Navy), enter the non-Army Agency code in the automated claim record (e.g., "DOJ"; Department of Justice).

NOTE: Army claims offices are not required to enter into the claims database Air Force and Navy claims received and forwarded to those other Services. Separate journal entries are made to establish the audit trail of such claims.

c. Transfer the open claim by using the Data Transfer Procedures from the Main Menu of ACMP to transfer the claim record data to an exportable diskette, and add the diskette to paper claim file ONLY when transferring the claim to other Army field claims offices.

d. Prepare a printout of the automated claim record as displayed on CPU monitor for attachment to claim file.

e. Record the claim transfer information in the claims journal.

f. Dispatch the claim file to the receiving office or agency.

16. Assist in investigation of claims and management of the affirmative claims program under supervision of RJA, which includes:

a. Preparation of attorney correspondence (e.g., Representation, Settlement or Installment Agreements, Releases, etc.).

b. Obtaining medical records, police reports, estimates of repair, or other documentation in support of Government's claim.

c. Corrective actions regarding deficiencies in processing or investigation.

d. Creating, interpreting, and forwarding reports generated by the automated claims program (e.g., Snapshots, SJA Report, etc.).

17. If the RJA has decided to waive or terminate the claim, enter the transaction code "W" as the action code in "Compromised/Waived" data field of automated claim file and update claims journal.

18. Receive check or money order for deposit in the settlement of the full amount asserted or as compromised by the RJA.

19. Determine whether the deposit is an installment payment.

a. Prepare receipt for the installment payment, file the copy of the receipt in the claim file, and forward the original to payee.

b. Determine whether the claim file contains an installment agreement or confess-judgment note and financial statement from the debtor or settlement agreement and releases as appropriate.

20. Prepare DD Form 1131 (Cash Collection Voucher).

a. If the deposit is for medical care recovery, enter the Accounting Classification as "21R3210, Miscellaneous Receipts Account" on the voucher.

b. If the deposit is for property damaged or destroyed, enter the Accounting Classification as "21R3019, Recoveries for Government Property Lost or Damaged" on voucher.

NOTE: Verify with the RJA/CJA whether the deposit is to be made to the General Treasury (21R3210) or to the maintenance and operations account of the medical treatment facility (MTF), depending on the theory of recovery used in processing the claim and date of treatment.

21. Forward the completed Cash Collection Voucher and any monetary instruments to the RJA for signature or endorsement as appropriate.

22. Ensure all negotiable instruments are secured in a locked container and deposited as soon as possible (within 24 hours, excluding weekends and holidays).

23. Enter deposit information to the claim record in automated database through the "Edit" function of the "Process Claims" submenu. Enter action code "N" for settlements in the full amount asserted and "C" for settlements/payments for compromised assertions.

NOTE: Each time a deposit is recorded, the information is stored in both the claim record and a separate record in "ADEPOSIT.DBF".

24. Annotate the chronology, place a copy of the deposit documentation in the claim file, and post the payment to the claims journal.

25. Use back-up procedures for all transactions and data entered in the automated program as prompted by the system's "Process Claims" submenu after any selection of "Q" for quit.

26. File the claim IAW DA Pam 27-162, App. N and AR 25-400-2.

27. Prepare DA Form 2938-R (Affirmative Claims Report) IAW AR 27-20 and DA Pam 27-162.

Performance Measures: None.

References

1. AR 27-20
2. DA Pam 27-162

Foreign Claims Information Paper.

What is a foreign claim?

A claim for payment against the U.S. government for property loss or damage, personal injury or death, incident to non-combat activities of the Armed Forces in foreign countries.

Who can we pay?

Inhabitants of foreign countries.

Who is NOT an inhabitant of a foreign country?

- a. Soldiers and their family members living overseas pursuant to military orders.
- b. Civilian employees of the U.S. Armed Forces or other agencies and their family members.
- c. A U.S. domiciliary (someone who lives in the U.S.) in a foreign country as a tourist, visitor, or on a business trip.
- d. The enemy.

NOTE: It is usually obvious whether the claimant qualifies as an inhabitant. In those uncommon situations in which the claimant is a U.S. citizen or national, you will have to determine if the claimant dwells in and has assumed a definite place in the economic and social life of a foreign country. Establish a set of questions to ask potential claimants. Below is an example from DA Pam 27-162 Figure 10-2.

1. *Date and place of birth?*
2. *List all countries of residence other than the United States since birth and include the years of residence.*
3. *List all years of residence in the United States and reasons for such residences, such as military assignment.*
4. *List any years of employment in other countries.*
5. *Name and status of spouse. If deceased, give date of death.*
6. *List date of marriage to sponsor.*
7. *If sponsor is deceased, furnish date and place of marriage and occupational status of spouse.*
8. *Names of countries in which you maintain citizenship and state basis of citizenship, such as birth, naturalization.*
9. *What country do you call home?*

What claim is cognizable?

The FCA (foreign claims act) authorizes compensation for personal injury, death, and for damage to or loss of real and personal property.

What claim is payable?

A claim arising out of non-combat activities is payable.

Liability under the FCA may be based on acts or omissions of U.S. soldiers or civilian employees of a U.S. military department only if they are considered negligent or wrongful. These persons need not be acting within the scope of their employment for their negligent conduct to cause actionable loss, damage or injury. Additionally, there is no bar to claims arising from off-duty or criminal conduct of U.S. soldiers or civilian employees.

NOTE: AR 27-20, Glossary, defines non-combat activities as authorized activities essentially military in nature, having little parallel in civilian pursuits, which historically have been considered as furnishing a proper basis for payment of claims. Examples are practice firing of missiles and weapons, training and field exercises, maneuvers that include the operation of aircraft and vehicles, use and occupancy of real estate, and movement of combat or other vehicles designed especially for military use. Activities excluded are those incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances.

What claim is not payable?

Claims arising directly or indirectly from combat activities of the U.S. Armed Forces are not payable. Whether damages sustained in areas of armed conflict are attributable to combat activities or non-combat activities depends upon the facts of each case. Damages caused by enemy action, or by the U.S. armed services resisting or attacking an enemy or preparing for immediate combat with an enemy, are certain to be considered as arising from combat activities.

Breach of contract claims are not payable. For example, damages sustained from the act of a U.S. soldier passing a bad check would not be payable, nor would property damage to a privately owned vehicle loaned to a U.S. soldier for personal purposes.

What is an FCC?

The Foreign Claims Commission is responsible for investigating and evaluating foreign claims. It is comprised of either one or three officers.

Who can be on the FCC?

Normally, a member of an FCC will be either a commissioned officer or a claims attorney. At least two members of a three-member FCC must be Judge Advocates or claims attorneys.

Who can pay and how much?

A one-member FCC who is a JA or a claims attorney may consider and pay claims presented, provided a mutually agreed settlement may be reached in an amount up to \$15,000, or disapprove any claim presented in an amount not exceeding \$15,000.

A one-member FCC comprised by a commissioned officer may consider and pay, in full or in part, claims presented in an amount not exceeding \$2,500, but may not disapprove any request. If denial is recommended the claim should be investigated and a report should be forwarded to a three member FCC for determination.

A three-member FCC, may take the following actions on a claim that is properly before it:

a. Disapprove a claim presented in any amount. After it takes final action and disapproves a claim presented in any amount over \$50,000, the FCC will forward to the appointing authority the written notice to the claimant, any response from the claimant, and its notice of final action on the claim.

b. Approve and pay meritorious claims. A claim that the FCC has adjudicated as meritorious, in an amount not exceeding \$50,000, may be paid in full or in part. The FCC will forward claims valued in excess of \$50,000 or incidents from which multiple claims may arise valued at more than \$100,000, to the Commander, USARCS, through the appointing authority, for further action along with a claim memorandum of opinion.

What are Solatia payments?

Payments made in accordance with local custom when a potentially compensable event has occurred. Payments are made to the victim or victim's family and are designed to convey personal feelings of sympathy or condolence. Such payments usually are made immediately and the amount varies. Solatia payments are made using money from the unit's operational and maintenance funds.

Additional Information.

For more detailed information and an example of a Deployment Claims SOP refer to Chapter 9 of the Operational Law Handbook, AR 27-20, or DA Pam 27-162.

References

1. AR 27-20
2. DA PAM 27-162
3. Operational Law Handbook

Chapter 4



Administrative Law

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1. Process Informal AR 15-6 Investigations.
2. Process Formal AR 15-6 Investigations.
3. Line of Duty Procedures.
4. Process Reports of Survey.

Process Informal AR 15-6 Investigations.

Conditions: You are a paralegal working at the Brigade level. The commander has just told you to prepare an appointment memorandum assigning an officer in your unit to be an AR 15-6 investigating officer for an informal investigation. Although the role of the paralegal may be limited during the AR 15-6 process it is important to realize you may be approached to explain the procedural aspects of the regulation, preparation of reports and memoranda, and guidance to ensure that all necessary steps in the process have been completed. You have access to AR 15-6.

Performance Steps:

1. Obtain the name of the investigating officer or board of officers from the appointing authority. When more than one officer is used it is called a board of officers.

NOTE: Informal investigation – A legal advisor is not necessary but may be requested. The investigating officer (IO) or board may use whatever method it finds most efficient and effective for acquiring information. No respondents can be designated for an informal investigation however the IO or board may make specific findings and recommendations toward one or more individuals.

In determining whether to use informal or formal procedures, the appointing authority should consider these among other factors:

- a. Purpose of the inquiry.*
- b. Seriousness of the subject matter.*
- c. Complexity of issues involved.*
- d. Need for documentation.*
- e. Desirability of providing a comprehensive hearing for persons whose conduct or performance of duty is being investigated.*

Regardless of the purpose of the investigation, even if it is to inquire into the conduct or performance of a particular individual, formal procedures are not mandatory unless required by other applicable regulations or directed by higher authority. Unless formal procedures are expressly required, either by the directive authorizing the board or by the memorandum of appointment, all cases will use informal procedures. In determining which procedures to use, the appointing authority should seek the advice of the servicing judge advocate (JA).

2. Determine if your commander has the authority to direct an informal investigation be conducted.

NOTE: The following people have the authority to appoint investigating officers IAW AR 15-6:

- a. Any general court-martial (GCM) or special court-martial convening authority, including those who exercise that authority for administrative purposes only.*
- b. Any general officer.*

c. Any commander or principal staff officer in the grade of colonel or above at the installation, activity, or unit level.

d. Any State Adjutant General.

e. A Department of the Army civilian supervisor permanently assigned to a position graded as a General Schedule/General Management, Level 14 (GS/GM-14) or above and who is assigned as the head of an Army agency or activity or as a division or department chief.

The following individuals may appoint an informal investigation or board:

a. Any officer authorized to appoint a formal board.

b. A commander at any level.

c. A principal staff officer or supervisor in the grade of major or above.

Only a general court-martial convening authority may appoint a formal investigation or board (AR 15-6, chap 5) or an informal investigation or board (AR 15-6, chap 4) for incidents resulting in property damage of \$1,000,000 or more, the loss or destruction of an Army aircraft or missile, an injury and/or illness resulting in, or likely to result in, permanent total disability, or the death of one or more persons. A copy of any investigation involving a fratricide/friendly fire incident (see AR 385-40) will be forwarded, after action by the appointing authority, to the next higher Army headquarters for review.

3. Ensure the investigating officer or board of officers meet the following requirements:

a. Are best qualified for the duty by reason of their education, training, experience, length of service and temperament.

b. Only commissioned officers, warrant officers, or Department of the Army civilian employees permanently assigned to a position graded as a General Schedule, Level 13 (GS-13) or above, will be appointed as investigating officers or voting members of boards. The only exception is when an enlisted member with specific technical knowledge is assigned to the board.

4. Prepare the appointment memorandum IAW AR 15-6 (there are examples in the back of the reg) and AR 25-50. The appointment memorandum will address the purpose, scope, and nature of the findings and recommendations required at outcome. Reporting requirements should be identified. Appointment of an investigating officer or board under informal procedures can also be done orally.

5. Although a legal advisor is not required for informal investigations, the investigating officer or board may consult with an attorney if requested. Set up consultation with the Staff Judge Advocate's office if necessary.

6. Provide the investigating officer/board with a copy of AR 15-6 and DA Form 1574.

7. After the IO/board has finished the investigation, review the report of proceedings. The report typically should consist of DA Form 1574 "Proceedings by Investigating Officer/Board of Officers," all exhibits, statements, or other documents collected and used

during the investigation (ensure all attachments are marked consecutively with Roman numerals). Attach the appointment memorandum, any privacy act statements, and a written explanation of any delays, irregularities, or other problems encountered to the report.

8. Ensure the findings and recommendations on the report are clear and concise.

NOTE: A finding is a clear and concise statement of a fact that can be readily deduced from evidence in the record. It is directly established by evidence in the record or is a conclusion of fact by the investigating officer or board. Negative findings (e.g., that the evidence does not establish a fact) are often appropriate. The nature and extent of recommendations required also depend on the purpose of the investigation or board and on the instructions of the appointing authority. Each recommendation, even a negative one (e.g., that no further action be taken) must be consistent with the findings.

9. Ensure the report is signed by the investigating officer or by all members of the board.

10. Two complete copies of the completed report should be delivered to the appointing authority per AR 15-6 para. 3-18.

11. The appointing authority will seek a legal review of all cases involving serious or complex matters, such as where the incident being investigated has resulted in death or serious bodily injury, or where the findings and recommendations may result in adverse administrative action, or will be relied upon in actions by higher headquarters. The JA's review will determine:

- a. Whether the proceedings comply with legal requirements.
- b. What effects any errors would have.
- c. Whether sufficient evidence supports the findings of the investigation or board or those substituted or added by the appointing authority.
- d. Whether recommendations are consistent with the findings.

References

1. AR 15-6
2. AR 25-50

Performance Measures:

The Brigade Commander is COL STEVEN M. COHEN, IN, 3d BCT, 54th IN DIV (M) 46124-9000. COL Cohen has directed you to prepare an appointment memorandum assigning MAJ PAUL T. SMITH, HHC, DISCOM, 54th IN DIV (M) 46124-9000, as an investigating officer. MAJ Smith will use informal procedures to investigate the circumstances surrounding an allegation that senior noncommissioned officers in Company A, 54th Main Support Battalion, have been using coercion to sell prepaid legal services to junior soldiers in the platoon. There is a letter signed by SPC JOSEPH B. BULLOCK, detailing an encounter he had with a senior NCO in the company. The Brigade office symbol is DMSB-CO. Today's date is 17 Nov 04. MAJ Smith should provide 2 copies of DA Form 1574, including all statements or other written matters NLT 7 working days from today. MAJ Smith should also prepare precise findings concerning any individuals involved and if necessary recommend a course of action as to what type of punishment if any that may be appropriate. Also identify any need for training on "Relationships between soldiers of different ranks," among various members or groups of the company. If the allegations prove to be true, the conduct of the senior noncommissioned officers is a violation of AR 600-20, para. 4-14, Army Command Policy. COL Cohen will sign the memorandum today.

Requirement – Prepare an appointment memorandum for MAJ Smith IAW AR 15-6

See Appendix C-1 for the answer to this exercise.

Process Formal AR 15-6 Investigations.

Conditions: You are a paralegal working at the Brigade level. The commander has just told you to prepare an appointment memorandum assigning a board of officers in your unit to an AR 15-6 formal investigation. Although the role of the paralegal may be limited during the AR 15-6 process it is important to realize you may be approached to explain the procedural aspects of the regulation, preparation of reports and memoranda, and guidance to ensure that all necessary steps in the process have been completed.

Performance Steps:

1. Obtain the name(s) of the board of officers from the appointing authority.

NOTE: In a formal investigation, regardless if there is one or more officer appointed to the investigation it is referred to as a "Board of Officers."

Formal investigation - Normally involves due process, hearings, a legal advisor, and a designated respondent. Contains many of the same provisions as the informal investigation.

In determining whether to use informal or formal procedures, the appointing authority should consider these among other factors:

- 1. Purpose of the inquiry.*
- 2. Seriousness of the subject matter.*
- 3. Complexity of issues involved.*
- 4. Need for documentation.*
- 5. Desirability of providing a comprehensive hearing for persons whose conduct or performance of duty is being investigated.*

In determining which procedures to use, the appointing authority should seek the advice of the servicing judge advocate (JA).

2. Determine if your commander has the authority to direct a formal investigation.

NOTE: The following people have the authority to appoint:

a. Any general court-martial (GCM) or special court-martial convening authority, including those who exercise that authority for administrative purposes only.

b. Any general officer.

c. Any commander or principal staff officer in the grade of colonel or above at the installation, activity, or unit level.

d. Any State Adjutant General.

e. A Department of the Army civilian supervisor permanently assigned to a position graded as a General Schedule/General Management, Level 14 (GS/GM-14) or above and who is assigned as the head of an Army agency or activity or as a division or department chief.

Only a general court-martial convening authority may appoint a formal investigation or board (chap 5) or an informal investigation or board (chap 4) for incidents resulting in property damage of \$1,000,000 or more, the loss or destruction of an Army aircraft or missile, an injury and/or illness resulting in, or likely to result in, permanent total disability, or the death of one or more persons. A copy of any investigation involving a fratricide/friendly fire incident (see AR 385-40) will be forwarded, after action by the appointing authority, to the next higher Army headquarters for review.

3. Obtain the name(s) of the board of officers from the appointing authority and prepare the appointment memorandum IAW AR 15-6 pages 11-15. For formal investigations the appointment must be in writing.

4. Ensure the board of officers meet the following requirements:

a. Are best qualified for the duty by reason of their education, training, experience, length of service and temperament.

b. Only commissioned officers, warrant officers, or Department of the Army civilian employees permanently assigned to a position graded as a General Schedule, Level 13 (GS-13) or above, will be appointed as investigating officers or voting members of boards. The only exception is when an enlisted member with specific technical knowledge is assigned to the board.

5. Coordinate a meeting between the board of officers and the legal advisor, (the administrative law office usually assigns a legal advisor), coordinate as necessary.

6. If there is a respondent (person or persons being investigated) notify them at least five working days prior to the day of the inquiry in writing. There is an example of this notification in AR 15-6. The respondent should also be provided a copy of the case file and is authorized counsel. Assist the respondent with contacting an attorney if necessary.

7. Ensure the board of officers is provided a copy of AR 15-6.

8. Ensure the report is completed in the following manner:

a. The report will consist of DA Form 1574 (Proceedings by Investigating Officer/Board of Officers) and statements and exhibits collected during the course of the investigation marked consecutively with Roman numerals. The GCMCA may authorize a verbatim transcript be prepared, consult AR 15-6 for guidance. Attach the appointment memorandum, any privacy act statements, and a written explanation of any delays, irregularities, or other problems encountered.

b. All reports will include clear and concise findings and recommendations.

NOTE: A finding is a clear and concise statement of a fact that can be readily deduced from evidence in the record. It is directly established by evidence in the record or is a conclusion of fact by the investigating officer or board. Negative findings (e.g., that the evidence does not establish a fact) are often appropriate. The nature and extent of recommendations required also depend on the purpose of the investigation or board and on the instructions of the appointing authority. Each recommendation, even a negative one

(e.g., that no further action be taken) must be consistent with the findings.

9. Ensure the report is signed by the board of officers.

10. Ensure two copies of the report are provided to the appointing authority and if there is a respondent(s) a copy of the report to them.

11. The appointing authority will seek a legal review of all cases involving serious or complex matters, such as where the incident being investigated has resulted in death or serious bodily injury, or where the findings and recommendations may result in adverse administrative action, or will be relied upon in actions by higher headquarters. The JA's review will determine:

- a. Whether the proceedings comply with legal requirements.
- b. What effects any errors would have.
- c. Whether sufficient evidence supports the findings of the investigation or board or those substituted or added by the appointing authority.
- d. Whether recommendations are consistent with the findings.

References

- 1. AR 15-6
- 2. AR 25-50

Performance Measures:

On 13 Nov 04, the Commander, 54th IN DIV (M), Fort Atterbury, IN 46124-9000, appointed the following personnel to a formal board of officers:

MAJ Mark Caron (President)
CPT David Richards (Member)
1LT Derek Olsen (Member)

Additionally the following personnel will have these assigned roles:

CPT Shane Peterson (Legal Advisor)
1LT Stephanie Corleone (Recorder)
SGT James Toney (Reporter)
SFC Miguel Torres (Respondent)
CPT Kurt Simmons (Counsel for Respondent, CPT Simmons is a USATDS attorney, his address is Trial Defense Service, Bldg. 2, Fort Atterbury, IN 46124-9000)

SFC Torres was notified on 14 Nov 04 that the investigation would take place on 20 Nov 04, in Bldg. 5213 Rm. 5, Fort Atterbury, IN 46124-9000, at 0730.

All members and parties were present for the entire proceeding. The board finished gathering evidence at 1615 on 20 Nov 04 and completed finding and recommendations at 1640 on 20 Nov 04.

The board of officers is investigating a sexual harassment claim. During the findings portion of the investigation the members unanimously agreed:

“That SFC Miguel Torres sexually harassed PV1 Mindy Jones on 16 and 17 Oct 04, by telling her that if she had sex with him, he would see that she was promoted ahead of her peers.”

Additionally, “The board unanimously recommends that charges be preferred against SFC Torres with a view towards trial by court-martial and that he be removed immediately from any and all supervisory positions.”

The president, recorder, and members all signed the report. The appointing authority approved the findings and recommendations on 22 Nov 04.

No information is provided for Section III. Fill it out as you see fit. Take note of question 11a, for which information has been provided.

Requirement – fill out DA Form 1574 from the information provided above.

See Appendix C-2 for the answer to this exercise.

Line of Duty Procedures.

Conditions: You are a paralegal working at the Brigade level. The Brigade S1 has directed the paralegal NCOIC to establish a system for processing line of duty (LD) investigations. The NCOIC has tasked you to establish a systematic approach for ensuring that LD investigations are completed accurately and IAW with AR 600-8-4 (Line of Duty Policy, Procedures, and Investigations).

Performance Steps:

The Army's Line of Duty system starts from the premise that every soldier who incurs an injury or disease while conducting him or herself properly as a member of the Army is entitled to certain benefits. These benefits include pay and allowances, accrual of service and leave, and, in some cases, disability retirement. The Army uses the Line of Duty system to determine who is eligible to receive these benefits.

Before looking at a soldier's eligibility for benefits, however, we first need to know when a line of duty determination is required. Basically, the rule is this; a line of duty determination is necessary whenever a soldier incurs an injury or disease, which incapacitates the soldier from the performance of duty.

1. Determine if your commander has the authority to appoint either a formal or informal LD investigation.

NOTE: Special court-martial convening authorities (SPCMCA) normally appoint both informal and formal LD investigations. See AR 600-8-4, Chapter 1.

2. Determine if the appointing authority has the ability to approve the findings of a LD investigation.

NOTE: SPCMCAs have the authority to approve informal investigations; GCMCAs have the authority to approve formal investigations.

3. Determine the requirement for conducting a LD investigation.

NOTE: Line of duty investigations are conducted essentially to arrive at a determination of whether misconduct or negligence was involved in the disease, injury, or death of a soldier, and, if so, to what degree. The LD determination is presumed to be "LD YES" without an investigation when:

- a. In the case of disease (see AR 600-8-4 for exceptions).*
- b. In the case of injuries clearly incurred as a result of enemy action or attack by terrorists.*
- c. In the case of death due to natural causes or while a passenger in a common commercial carrier or military aircraft.*
- d. In all other cases of death or injury, except injuries so slight as to be clearly of no lasting significance (for example, superficial lacerations or abrasions or mild heat injuries), an LD investigation must be conducted.*

Investigations can be conducted informally by the chain of command where no misconduct or negligence is indicated, or formally where an investigating officer is appointed to conduct an investigation into suspected misconduct or negligence.

4. If an investigation is required, determine if it should be formal or informal.

NOTE: A commander has three courses of action depending upon the soldier's status and the circumstances surrounding the injury, disease or death. In certain cases, a determination of LD is made without an investigation. For example, most diseases are presumed to be in the line of duty. There is a presumption of LD if a soldier dies in combat, as a result of terrorist attacks, due to natural causes or while a passenger in a common carrier or military aircraft. An informal line of duty investigation is conducted when no willful negligence or misconduct is suspected. One would probably result, for example, when a soldier is injured in a car accident. A formal investigation is conducted under the following:

- a. Injury, disease, death, or medical condition that occurs under strange or doubtful circumstances or is apparently due to misconduct or willful negligence.*
- b. Injury or death involving the abuse of alcohol or other drugs.*
- c. Self-inflicted injuries or possible suicide.*
- d. Injury or death incurred while AWOL.*
- e. Injury or death that occurs while an individual was en route to final acceptance in the Army.*
- f. Death of a USAR or ARNG soldier while participating in authorized training or duty.*
- g. Injury or death of a USAR or ARNG soldier while traveling to or from authorized training or duty.*
- h. When a USAR or ARNG soldier serving on an AD tour of 30 days or less is disabled due to disease.*
- i. In connection with an appeal of an unfavorable determination of abuse of alcohol or other drugs.*
- j. When requested or directed for other cases.*

Processing Informal Investigations

Step 1

Person: Military treatment facility (MTF) commander (commander having physical or administrative responsibility for MTF in which the individual is treated or pronounced dead)

Action: Complete 5 copies of section 1, DA Form 2173. Send the original and 3 copies to the soldier's unit commander and 1 copy to the supporting MILPO. When USAR and ARNG personnel are injured during authorized training and are treated by a civilian doctor, the doctor and the unit commander should complete DA Form 2173. When the incident occurs while the soldier is away from his unit (that is, on leave, in transit, AWOL, and so forth), complete section 1, DA Form 2173 and send to the nearest Army unit that has an appointing authority (State MILPO for ARNG) in the area of the MTF. However, when the incident occurs during a period when the soldier and his or her unit are training or on another exercise away from the parent installation, complete section 1, DA Form 2173 and send to the parent installation casualty area commander (CAC) (State MILPO for ARNG). The MTF commander will provide supporting documentation requested by the parent installation, MILPO, or responsible unit commander. The MTF will send the original and 4

copies to the State MILPO for the soldier's unit if the soldier is not Federalized and/or attending an Active Army Service School. (See note 2.)

Completion time: 5 calendar days after incident or initial treatment (see note 1).

Step 2

Person: Individual's unit commander

Action: Request DA Form 2173 from MTF, if not previously received.

Completion time: No later than 10 days after incident (see note 1).

Step 3

Person: Individual's unit commander

Action: Complete section 2, DA Form 2173; attach support documents; and send original and 2 copies to the appointing authority for units in the area in which the incident occurred. U.S. Army Reserve units conducting LD investigations will submit the LD investigation to the CAC having jurisdiction over the area where the injury occurred for final processing.

Completion time: 30 calendar days after incident (see note 1).

Step 4

Person: Appointing Authority

Action: Review the LD investigation for completeness and required documents.

a. If approved, annotate forms as follows (preceded by official designation of headquarters and date, and followed by signature and signature block):

(1) For disease, injury, or death (when appointing authority is the approving authority)— "Reviewed for completeness. In LD," followed by command line of "BY AUTHORITY OF THE SECRETARY OF THE ARMY." Retain 1 copy, send original to official military personnel file (OMPF) as follows: for officers—HQDA (AHRC-MSR), Alexandria, VA 22332-0444; for enlisted—Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249-5301; for USAR personnel—Commander, USA HRC, ATTN: ARPC-PASD, 1 Reserve Way, St. Louis, MO 63132-0505; for ROTC cadets—in accordance with AR 145-1. Send 1 copy each to the soldier's unit commander and the final approving authority. (See notes 2 and 3.)

(2) For disease, injury, or death (when appointing authority is not the approving authority), "Reviewed for completeness, In LD," followed by appropriate command line. Send original and 2 copies to the final approving authority.

- b. If disapproved, direct a formal LD investigation.

Completion time: 35 calendar days after incident (see note 1).

Step 5

Person: Final Approving Authority

Action: Review the LD investigation for completeness and required documents.

- a. If approved, annotate as outlined under appointing authority.

(1) For disease or injury—Retain one copy, send original to OMPF, and 1 copy to the soldier's unit commander. An approved copy of LD investigation should be returned to the initiating MTF on all injuries on ARNG and USAR soldiers on AD for 30 days or less, or initial active duty training (IADT), when they are patients. For the ARNG, the final approving authority will retain the original (NGB or State AG). The State AG will indicate final action on all copies retained and forward copies to the U.S. Property and Fiscal Officer (USPFO) of the State, the unit commander for filing in the soldier's military personnel records jacket (MPRJ), and the soldier in accordance with paragraph 3–12. (See notes 2, 3.)

(2) For deaths—Retain 1 copy and send original and 1 copy through casualty reporting channels to HQDA (AHRC–PED–S), Alexandria, VA 22332.

- b. If disapproved, return to the appointing authority and direct a formal LD investigation.

Completion time: 40 Calendar days after incident (see note 1).

Notes:

1. If investigation extends beyond time limits, see AR 600-8-4, paragraph 4–4.
2. An extra copy of DA Form 2173 will be prepared for ARNG personnel attending service school under the jurisdiction of the Army or on ADT under the Reserve Enlistment Program of 1963 (REP–63). This copy will be filed in the individual's field MPRJ, which is returned to the State AG at the end of service school or ADT.
3. Accomplish notification actions required by AR 600-8-4, paragraph 3–12.

Processing Formal Investigations

Step 1

Person: MTF commander (commander having physical or administrative responsibility for the MTF in which soldier is treated or pronounced dead).

Action: Complete 5 copies of section 1, DA Form 2173. Send the original and 3 copies to the soldier's unit commander and 1 copy to the supporting MILPO. An extra copy of DA Form 2173 will be prepared for ARNG personnel attending Service school under the jurisdiction of the Army or on ADT under the Reserve Enlistment Program of 1963 (REP-63). This copy will be filed in the soldier's local file, which is returned to the State AG at the end of service school or ADT. For USAR and ARNG personnel who are injured during IDT and are treated by a civilian doctor, the doctor and the unit commander should complete DA Form 2173. When the incident occurs while the soldier is away from his unit (that is, on leave, in transit, AWOL, and so forth), complete section 1, DA Form 2173, and send to the nearest Army unit with an appointing authority (State MILPO for ARNG) in the area of the MTF. However, when the incident occurs during a period when the soldier and his unit are training or on another exercise away from the parent installation, complete section I, DA Form 2173, and send to the parent installation CAC (State MILPO for ARNG). The MTF commander will provide the supporting documentation requested by the parent installation, MILPO, or responsible unit commander. The MTF will send the original and 4 copies to the State MILPO for the soldier's unit if the soldier is not Federalized and/or attending an Active Army Service School.

Completion time: 5 calendar days after incident or initial treatment (see note 1).

Step 2

Person: Individual's unit commander.

Action: Request DA Form 2173 from MTF if not previously received.

Completion time: No later than 10 days after incident (see note 1).

Step 3

Person: Individual's unit commander.

Action: Complete section 2, DA Form 2173; attach supporting documents; and send original and 3 copies to the LD appointing authority.

Completion time: 30 calendar days after incident (see note 1).

Step 4

Person: Appointing Authority

Action: Appoint a disinterested officer in writing to conduct the investigation. (When a formal LD investigation is to be conducted, an IO must be appointed in writing. The IO may be a commissioned officer or warrant officer). The same officer should be appointed to investigate all injuries or deaths that occurred as a result of a single incident. Officers who can offer evidence in the case and soldier's unit commander will not be appointed as

the investigating officer. (The investigating officer may also be appointed to investigate a claim or possible future claim in accordance with AR 27–20 if a separate claim's investigation is required. The LD investigation will be in lieu of the investigation by a claims officer required by AR 27–20 if the injury or death of the person whose LD status is being investigated is the only basis for claim against the Government of other party or agency.)

Completion time: 35 calendar days after incident (see note 1).

Step 5

Person: Investigating officer

Action: Conduct a formal LD investigation as outlined in AR 600-8-4, make a report on DD Form 261, and send original and 3 copies to the appointing authority.

Completion time: 50 calendar days after incident (see note 1).

Step 6

Person: Appointing Authority

Action: Review the investigation and complete the block titled "Action by the Appointing Authority" on DD Form 261. Retain 1 copy of the report and send the original and 2 copies to the final approving authority (or reviewing authority for ARNG). When the soldier is in the ARNG on duty under 32 USC 503, 504, or 505, the appointing authority will send the original and 2 copies of the report of investigation to the State MILPO from which the individual was ordered to duty. The State AG is the reviewing authority. USAR units conducting LD investigations will submit the LD investigation to the CAC having jurisdiction over the area where the injury occurred for final processing. (See note 2.)

Legal Review

The appointing authority will refer the report of investigation to the servicing JA for legal review and opinion. The ARNG will refer ARNG reports of investigation to a JA or licensed attorney (non-JA) soldier of the ARNG, designated by the State AG. The legal opinion rendered will be attached to the investigation. The JA's review will:

- a. Determine whether legal requirements are in compliance.
- b. Ascertain if any error exists and if so, whether such error has a material or adverse effect on any individual's rights.
- c. Determine whether the determination of the investigation is supported by substantial evidence or lack of evidence.

d. Examine the investigation to see if potential claims may be involved. This is of special concern where medical care has been furnished and the Government may be entitled to recover third party medical claims.

Completion time: 65 calendar days after incident (see note 1).

Step 7

Person: Reviewing Authority (ARNG only)

Action: Review the investigation, complete the block titled "Action by the Reviewing Authority" (see notes 2 and 3) on DD Form 261, and send the original and 2 copies to final approving authority.

Completion time: 70 calendar days after incident (see note 1).

Step 8

Person: Final Approving Authority

Action:

a. Review the LD investigation and enter the official designation of the headquarters, the date, approval or disapproval of the determination (see below), signature, and signature block. (See note 3.) For disease, injury, or death, use one of the following:

(1) If approved, BY AUTHORITY OF THE SECRETARY OF THE ARMY;

(2) If disapproved, substitute the following: Reasons for disapproval are: (give reasons) BY AUTHORITY OF THE SECRETARY OF THE ARMY

b. Distribute as follows:

(1) Death—Retain one copy and send the original and one copy to HQDA (AHRC–PED–S), Alexandria, VA 22332. (See note 4.)

(2) Disease or injury—Retain one copy and send original to the custodian of the soldier's OMPF. For officers: HQDA (AHRC–MSR), Alexandria, VA 22332–0444; for enlisted: Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249–5301; for USAR personnel: Commander, USA HRC, 1 Reserve Way, St. Louis, MO 63132–5200; for ROTC cadets: in accordance with AR 145–1; and one copy to the soldier being investigated. (See note 4.)

c. Criminal Investigation Division reports and classified material will not be included in the copy sent to the soldier.

d. If determination is "not in LD," final approving authority must also take appeal action in AR 600-8-4, paragraph 4–17.

e. A copy of an LD investigation should be returned to the initiating MTF on all injuries concerning USAR and ARNG soldiers on AD for 30 days or less, or IADT, when they are patients.

f. The CNGB will retain the original. The CNGB will return one copy to the State AG. The State AG will annotate all copies to show final action taken by the CNGB and distribute one copy to each of the following:

(1) CNGB for file.

(2) State USPFO.

(3) Unit commander for file in the soldier's MPRJ.

(4) The soldier in accordance with paragraph 3–12.

Completion time: 75 calendar days after incident (see note 1).

Notes:

1. If investigation extends beyond time limits, see AR 600-8-4, paragraph 4–4.
2. The appointing, reviewing, and final approving authorities may change a previous determination. When a determination is changed, the reasons for that change will be shown on the back of DD Form 261, if there is not enough room on the front.
3. Except for ARNG cases, enter "SAME AS FINAL APPROVING AUTHORITY" in the block title, "Action by Reviewing Authority."
4. Accomplish notification actions required by AR 600-8-4, paragraph 3–12.

References

AR 600-8-4

Performance Measures:

SPC Victor P. Doucette, 222-33-2145, Co A, 1/12th IN BN, 54th ID (M), Fort Atterbury, IN 46124-9000, contracted the Ebola virus while on leave in a foreign country. COL Michael Jones, IN, commander of 1st IN Bde, has appointed CW3 Brian S. Ale, HHC, 1st Bde, Fort Atterbury, IN 46124-9000, to investigate using formal procedures. COL Jones has directed you to prepare the written appointment memorandum for his signature today (19 Nov 04).

Requirement – Prepare an appointment memorandum.

See Appendix C-3 for the answer to this exercise.

Process Reports of Survey.

Conditions: You are an active Army paralegal working at the Battalion level. The commander has directed you to establish a standardized procedure for preparing reports of survey and insure their compliance with regulation. You have access to AR 735-5 and any other necessary regulations.

Performance Steps:

NOTE: A report of survey documents the circumstances concerning the loss, damage, or destruction of Government property and serves as, or supports a voucher for adjusting the property from accountable records. It also documents a charge of financial liability assessed against an individual or entity, or provides for relief from financial liability.

1. Initiate a report of survey when:

a. Negligence or willful misconduct is suspected as the cause, and the individual does not admit liability and refuses to make voluntary reimbursement to the Government for the full value of the loss, less depreciation.

b. The property loss, damage, or destruction involves a change of accountable officer's inventory and the outgoing accountable officer made no voluntary reimbursement for the full amount of the loss to the Government.

c. The value of the admitted loss, damage, or destruction exceeds the individual's monthly basic pay.

d. The value of the damages or shortages in occupied Government quarters (real property and furnishings combined) or Government furnishings in non-Government quarters exceed the individual's monthly basic pay.

e. The total handling loss of a specific bulk petroleum product exceeds the allowable loss for that product, and the dollar value of the total loss exceeds \$500. See AR 710-2, paragraph 2-35i.

f. The Loss or destruction involves a sensitive item. Investigate sensitive items lost or destroyed per AR 15-6. However, do not use the AR 15-6 investigation as authority to adjust property records or to assess financial liability. Process a report of survey to accomplish either of these actions. When using an AR 15-6 investigation, do not request a separate investigation by a survey officer.

g. The loss or destruction involves public funds or other negotiable instruments.

h. Required by higher authority or other DA regulations.

i. Directed by an inventory adjustment report (IAR) approving authority.

j. The loss or damage involves a GSA vehicle, and the administrative actions under AR 735-5, paragraph 12-1c have not been taken.

k. The loss resulted from a fire, theft or natural disaster.

2. The primary hand receipt holder or the individual accountable for the property (normally) initiates the report of survey by filling out block 1 and blocks 3-12, of DA Form 4697, as soon as the loss, damage, or destruction is discovered.

3. The initiator will forward DA Form 4697 to the accountable officer.

NOTE: The accountable officer is a person officially appointed on orders to maintain a formal set of accounting records of property or funds. This person may or may not have physical possession of the property or funds. The three types of accountable officers are:

a. Transportation officer. The transportation officer is accountable for property entrusted to him or her for shipment.

b. Stock record officer. The stock record officer is accountable for supplies being held for issue from time of receipt until issued, shipped, or dropped from accountability.

c. Property book officer. The property book officer is accountable for property at the using unit level on receipt and until subsequently turned in, used, (consumed) for authorized purposes, or dropped from accountability. (Hand receipt holders are not accountable officers.)

4. The accountable officer will complete DA Form 4697, blocks 14, 15, and 16, assigning a document or voucher number to any initiated report of survey when received from the initiator except:

a. For damaged property.

b. When the lost or destroyed property is on another accountable officer's records. The accountable officer will return the report of survey without action, and advise the initiator of who the correct accountable officer is, if known.

*NOTE: **Appointing authority:** An officer or civilian employee designated in writing by the approving authority with responsibility for appointing report of survey investigating officers; reviewing the survey officer's findings and recommendations; and providing his or her concurrence/non-concurrence to the approving authority of the survey officer's findings and recommendations. The appointing authority is normally under the command of, or on the staff of the approving authority. An appointing authority must be in the grade of lieutenant colonel or above, or be a GS-13 or above. (For exceptions, see AR 735-5, paragraph 13-16c(1) through (3)). **Approving authority:** An Army officer or Department of the Army civilian employee authorized to appoint survey officers and to approve reports of survey "by authority of the Secretary of the Army." An approving authority must be in the grade of lieutenant colonel or above, or be a GS-14 or above, in a supervisory position. The approving authority is normally senior to the appointing authority.*

5. On receipt of DA Form 4697 from the accountable officer, the appointing authority when designated, or the approving authority will review the information in block 11, along with any exhibits provided by the initiator, and determine if:

a. A report of survey investigation is directed by higher authority, other DA regulations, or requested by an accountable supply distribution activity.

b. Sufficient information exists to provide a clear understanding of the circumstances surrounding the loss, damage, or destruction of Government property and determine whether a survey officer should be appointed.

NOTE: DA Form 4697, blocks 1 to 20 will be filled out as follows:

Item 1. Enter the date the report of survey is prepared.

Item 2. The approving authority will enter the survey number.

Item 3. If the property is carried on a stock record account, enter "Stock Record Account." If the property is carried on the organizational clothing and equipment records, enter Organizational." If the property is carried on the installation property book, enter "Installation." If the property is real property, enter "Real Property."

Item 4. Enter the address of the accountable officer. Also enter the Unit Identification Code (UIC) for property book accounts and Department of Defense Activity Address Code (DODAAC) for stock record accounts. If the items listed on the report of survey are not recorded on a property book or stock record account, enter the address of the activity maintaining the expendable or durable document register.

Item 5. (Accountable officer or primary hand receipt holder). Enter the name, grade and organization of the person preparing the document. Include the UIC of the organization. Normally, this person will be the commander or the primary hand receipt holder. When it is impractical for these persons to prepare the report of survey, provisions will be made for another person to perform this duty for them. Line out the words "accountable officer" or "Primary hand receipt holder," as appropriate.

Item 6. Enter the stock number and line item number. If the item is nonstandard, enter "nonstandard" or "NSI."

Item 7. Enter the correct description of the articles lost, damaged, or destroyed. If the articles are nonstandard, give a description accurate enough for identification. When the articles involved have been assigned serial numbers, include such numbers for more identification. Describe damaged major units as such and not as damaged component parts. If the space on the face of the form is insufficient, use blank paper, properly identified. Do not trim the basic form and use it as a continuation sheet. (See Table 13-1.) Also enter the reportable item control code (RICC) for RICC 2, A and Z items. When RICC 2, A or Z items are listed on the report of survey and are totally lost (no residue to turn-in), enter the words "No residue."

Item 8. Enter the number of units of the articles listed, together with the unit of issue, such as "1 ea," "2 pr," "2 dz," etc.

Item 9. Enter the AMDF price in effect at the time of the loss. When the AMDF price is not available, use the current market price of a similar item; otherwise, estimate the unit price and attach the basis for estimate to the report of survey as an exhibit. Do not enter the repair cost in this column.

Item 10. Enter the total cost of all units of each article listed that has been lost or destroyed. Total cost is computed by multiplying the unit price (column 9) of each item listed, by the quantity (column 8). For damaged property, enter the ECOD. After the last entry, draw a line and enter the sum of the entries in the column and enter "Grand Total" in the unit price column. If continuation sheets are used, show the "subtotal" on each sheet. Show the grand total on the last sheet. The grand total will be the total cost of all items listed on all sheets.

Item 11. Enter a concise and accurate statement of the facts in the case. Include the date and place of the loss or damage. Show all persons directly concerned by name and grade. Refer to exhibits by the capital letter designation assigned according to paragraph 13-9. Show exhibits initially attached; for example, "Exhibits A to D attached." If space on the form is insufficient, continuation sheets may be used. (See figure 13-4.) Do not trim the basic form for use as a continuation sheet.

Item 12. The person providing the statement in block 11 will sign in the block titled: "signature and date". Type the person's name, grade and title in block titled: "type name, grade, and SSN".

Item 13. Subscribed and sworn to (or affirmed). Leave blank.

Item 14. Enter the date the signature is entered in block 15. Figure 13-3B. Completion Instructions (by item or column) for DA Form 4697, Department of the Army Report of Survey (Blocks 1-20).

Item 15. Enter the name, grade and signature of the accountable officer, or the individual who maintains the expendable/durable document register.

Item 16. Enter the document number or voucher number (DODAAC, Julian date and serial number).

Note: Blocks 17 through 20 are to be completed by the appointing authority. If an appointing authority has not been designated, leave blocks 17 through 20 blank.

Item 17. The Appointing Authority will check the proper block. (See AR 735-5, paragraph 13- 22.)

Item 18. Enter the date the signature is entered in block 20.

Item 19. Enter the name, grade and title of the appointing authority.

Item 20. The Appointing Authority will sign.

DECISION OF THE APPROVING AUTHORITY WITHOUT NEED FOR FURTHER INVESTIGATION

6. This action is known as the "short survey." The approving authority can provide:

a. Relief from responsibility. When the approving authority determines from the information contained in block 11, DA Form 4697, and attached exhibits, there is no evidence of negligence, he or she may provide relief from responsibility by:

1. Placing an "X" in block 37c and inserting the following statement in block 37 to relieve all concerned of property accountability and responsibility: "I have reviewed the information contained in block 11. No further investigation is required. I do not suspect negligence, or willful misconduct. I relieve all concerned from financial liability for the property listed in blocks 6 through 8."

2. Completing blocks 38 through 40b.

b. Assessment of financial liability. When the approving authority can establish from the information contained in block 11, DA Form 4697, and attached exhibits, that

negligence or willful misconduct was the proximate cause of the loss, damage, or destruction, he or she may assess financial liability by:

1. Preparing a memorandum to the respondent stating his or her intent to assess financial liability without further investigation. The memorandum will include the facts on which the proposed assessment of financial liability is based, computation of the actual loss, and the amount of financial liability to be assessed. The memorandum will include an explanation of the respondent's rights as described in AR 735-5, paragraphs 13-32 and 13-33. A complete copy of the report of survey with copies of all the exhibits will be attached to the memorandum as an enclosure.

2. On receipt of a rebuttal statement, if one is received, the approving authority will consider the report of survey together with any new evidence provided, or allegations of error presented by the respondent. The approval authority will make appropriate comments and attach the rebuttal statement and remarks to the report of survey as exhibits.

3. On receipt and review of the rebuttal statement, or upon expiration of the time allowed for the respondent to submit a rebuttal statement, the report of survey with all exhibits will be forwarded to the servicing judge advocate for legal review per AR 735-5, paragraph 13-36.

4. On receipt of the legal opinion, final approval to hold respondent financially liable is accomplished by completing blocks 37 through 40b, DA Form 4697, per paragraph 13-38g(4) below. Respondents must be notified of the approved charges of financial liability and be provided the opportunity to exercise their rights as listed in AR 735-5, paragraph 13-40.

5. Notify the respondent and provide finance a copy of DA Form 4697.

DECISION OF THE APPROVING AUTHORITY WITH THE NEED FOR FURTHER INVESTIGATION

7. The appointing authority or approval authority if there is no appointing authority, will receive DA Form 4697 from the accountable officer and when the need for an additional investigation is determined they will appoint a Survey Officer UP AR 735-5 or an Investigating Officer UP AR 15-6.

NOTE: There are four situations warranting an investigation performed per AR 15-6 in lieu of an investigation conducted UP AR 735-5. These situations occur when directed by:

- a. Other specific Army regulations.*
- b. When a commander decides it should happen.*
- c. A report of survey approving authority per AR 15-6, paragraph 2-1a determines the need.*
- d. A report of survey appointing authority per AR 15-6, paragraph 2-1a determines the need.*

8. When an AR 15-6 investigation is directed as a result of the loss, damage, or destruction of Government property, the DA Form 4697 will be prepared as follows:

a. Blocks 1 through 16 are completed prior to the appointment of an AR 15-6 investigating officer.

b. Blocks 17 through 20. If an appointing authority has been designated, the appointing authority will complete, otherwise leave blank.

c. Blocks 21 through 25. The appointing authority or the approving authority as appropriate will appoint an AR 15-6 investigating officer following the instructions in AR 735-5, figure 13-7 and AR 15-6, paragraph 2-1b.

9. On completion of the AR 15-6 investigation, do the following:

a. Attach the AR 15-6 investigation to the report of survey as an exhibit. Do not use the AR 15-6 investigation as a supporting document/voucher to adjust balances on property records or as a document to assess financial liability. Use the report of survey for these purposes.

b. In block 26, enter the words "see AR 15-6 investigation at exhibit (identify exhibit by an alpha character)". Mark classified or sensitive AR 15-6 investigation reports in block 26 showing their identification and location.

c. Blocks 26 through 32b. The AR 15-6 investigating officer will complete all actions as required by AR 15-6. The appointing authority or the approving authority as appropriate will accomplish those actions normally required of a survey officer as prescribed in AR 735-5, paragraphs 13-30, 13-32, and 13-33, had one been appointed.

10. When a survey officer is appointed UP AR 735-5, fill out DA Form 4697 as follows:

Item 21. Name of appointing authority (or approval authority if there is no appointing authority).

Item 22. Unit, and duty station.

Item 23. Date appointment of survey officer is made.

Item 24. Rank and name of survey officer.

NOTE: The survey officer must be an Army commissioned or warrant officer; an Army noncommissioned officer in the grade of sergeant first class (SFC) or above; civilian employee GS-7 or above, or a wage leader (WL) or wage supervisor (WS) employee.

Item 25. Rank and name of appointing authority.

11. The survey officer will conduct their investigation IAW AR 735-5 Chapter 13. Upon completion of the investigation the survey officer will complete blocks 26 through 29 on DA Form 4697.

12. The survey officer forwards the report to the appointing authority.

13. If a financial liability has been made against any person, that person will be notified and given the opportunity to review the report and submit a rebuttal.

14. After reviewing the rebuttal statement the appointing authority will forward the report to the approval authority.

15. Review by a Judge Advocate is necessary when financial liability is sought.

16. After the legal review the approving authority will either direct the action go back to the survey/investigating officer for more information, or approve or disapprove financial liability against the soldier.

NOTE: Complete DA Form 4697:

Item 26. The survey officer's findings and recommendations are recorded here. When financial liability is recommended, persons recommended are identified by name, grade, and social security number. Show the amount of their monthly base pay at the time of the loss and the amount of financial liability being recommended. When space in block 26 is not sufficient, prepare a continuation sheet using plain bond paper.

Item 27a. Enter the actual cost of the loss. See AR 735-5, appendix B for computing the amount of the loss.

Item 27b. Amount charged. Enter the amount of financial liability being recommended. If financial liability is not recommended, enter "none" or "0".

Item 27c. Loss to the Government. Enter the difference between actual loss and the amount of financial liability being recommended, i.e., $27a - 27b = 27c$.

Item 28. Enter the date the survey officer signs block 29b.

Item 29a and b. Typed name, grade of survey officer and signature. Enter the name and grade of the survey officer in block "a". The survey officer signs block "b".

Item 30 through 32b. Person(s) subject to financial charges will complete this section. If financial liability is not recommended, leave blank. If two or more persons are being recommended for charges, type or write the statement on plain bond paper as shown in AR 735-5, figure 13-8, and have each person complete and sign the statement.

Item 31. Enter the date the individual being recommended for charges of financial liability signs block 32b.

Item 32a and 32b. Type name, grade of person being charged and signature. Enter the name and grade of the person recommended for charges of financial liability. The person will sign in block 32b. If two or more persons are being charged, enter the words "See attached exhibits" in block 30. Have the persons sign their names below the statement extracted from block 30.

Note: Blocks 33 through 36 are to be completed by the Appointing Authority. If an Appointing Authority has not been designated, leave blocks 33 through 36 blank.

Item 33. Recommendation by the appointing authority. The appointing authority indicates his or her concurrence or non-concurrence with the survey officer's findings and recommendations.

Item 34. Enter comments, if any, by the appointing authority, per AR 735-5, paragraph 13-35.

Item 35. Enter the date the appointing authority signs block 36b.

Item 36a. Typed name, grade and title of appointing authority. Type the appointing authority's name, grade and title.

Item 36b. The appointing authority signs.

Item 37. The approving authority will enter the date the report of survey was received by him or her for decision in the upper right hand corner of Block 37. The approving authority will check blocks "a," "b," and/or "c" as appropriate.

Item 37a. When the appointing authority checks block 17a, indicating there is no negligence and no need for further investigation, the approving authority may reject the report by checking block 37a.

Item 37b. Used by the approving authority to indicate the investigation is incomplete, and further investigation is required.

Item 37c. Approved by authority of the Secretary of the Army. The approving authority may approve the report of survey to relieve all concerned, or to assess financial liability. If financial liability is approved, enter the person's name, grade, social security number and monthly base pay at the time of the loss to the Government. The approving authority will state the disposition of the property, e.g., accountability and responsibility for the property is discontinued, or accountability is to continue. If two or more persons are being charged with financial liability, see the example of the continuation sheet for block 37 at AR 735-5, figure 13-18.

Item 38a. Enter the actual cost of the loss. See block 27a. If not already computed, see AR 735-5, appendix B for computing the amount of the loss.

Item 38b. Enter the amount of financial liability charged. If financial liability is not charged, enter "none" or "0."

Item 38c. Enter the difference between actual loss and the amount of financial liability charged, i.e., $38a - 38b = 38c$.

Item 39. Enter the date the approving authority signs block 40b.

Item 40a. Typed name, grade and title of approving authority. Type the name, grade and title of the approving authority.

Item 40b. The approving authority signs block 40b.

17. If financial liability is sought a copy of the report will be provided to the soldier concerned and the servicing finance office.

NOTE: AR 735-5 provides an excellent example of what a "filled out" DA Form 4697 looks like. There are also numerous flow charts simplifying the report of survey process.

References

1. AR 735-5
2. DA Form 4697
3. AR 15-6

Performance Measures: None.

Chapter 5



Operational Law

Table of Contents

1. Convoy Operations.
2. Preparing for Deployment.
3. Handling/Processing Enemy Prisoners of War.
4. Operational Law Handbook
5. eJAWS (Electronic Judge Advocate War-Fighting System), and RDL (Rucksack Deployable Library).

Information Paper

Convoy Operations

The following steps will give you an idea of how to prepare a convoy for movement.

1. Collect the warning order and area maps. Other aids, if available, may be of use in evaluating possible routes. These additional aids, such as aerial photographs, weather and terrain data, and GPS azimuth reference data, may be available through supporting intelligence units, meteorological units, or US Army Space Command.

NOTE: The use of FBCB2 will drastically change the way Army convoys plan for movement. FBCB2 will provide information about the location of enemy and friendly forces and will also be an excellent tool for route reconnaissance, communication, and overall situational awareness. Read about FBCB2 later in this chapter.

2. Gather the unit SOP, appropriate field manuals, and the unit load plans. Review the unit load plans to ensure they are properly updated.

3. Evaluate environmental impact on the area of operation to include the effects of:

- a. Fuel spillage.
- b. Topsoil erosion and defoliation caused by heavy traffic.
- c. Air and noise pollution.

4. Conduct Route Reconnaissance.

a. Conduct a map reconnaissance and select primary and alternate routes. Follow up with a physical reconnaissance if time and tactical situation permits. Consider bridges, underpasses, tunnels, and overhead obstacles. Also consider populated areas, minimum speed limits and transport of hazardous cargo in selecting a route.

b. Identify all halts (rest, meals, refueling, maintenance, time schedule adjustment) considering limitations imposed by highway regulations, traffic congestion, and availability.

c. Identify all other route restrictions, such as temporary road conditions, weather, and enemy activity.

5. Prepare a strip map to contain the following elements:

- a. Start point.
- b. Release point.
- c. Route numbers.

- d. Town names.
- e. Critical points (fuel, rest).
- f. Distance between points.
- g. Total distance.
- h. North orientation.
- i. The phrase "Not to scale."

6. Plan Convoy Organization and Control.

a. Appoint a trail party consisting of the maintenance section, medical support (if available), POL (Petroleum, Oil, Lubrication) vehicle, and a claims officer. Instruct the trail party on appropriate actions to take concerning disabled vehicles, accidents, and what maintenance support is available along the route.

b. Coordinate support requirements, including medical, food service, refueling, MP, maintenance, billeting, fire, and engineer support.

c. Plan for special mission requirements (blackout drive, vehicle hardening, NBC environment, or other special situations).

d. Plan placement of troop carrying vehicles in the convoy. Place troop carrying vehicles toward the front of the serial or march unit to minimize the chance of injury from rear-end collision from civilian traffic. Do not place troops in or adjacent to vehicles containing fuels or hazardous cargo.

e. Plan placement of the heaviest vehicles at the front of the convoy. This will ensure a slower, steadier pace. If heavy vehicles are placed in the rear, they are more likely to fall behind the rest of the convoy. Do not use tracked vehicles as lead vehicles.

f. Divide the convoy (also called a march column) into march units/serials if it consists of over 20 vehicles.

1. A serial consists of elements of a march column moving from one area, over the same route, at the same time. All elements of a serial are grouped under one commander. A serial is given a temporary alphabetical, numerical, or other designation for identification. Convoys of over 20 vehicles are divided into serials to facilitate control.

2. Serials can be further divided into march units if deemed necessary by the convoy commander. March unit commanders are subordinate to serial commanders, who are in turn subordinate to the convoy commander.

3. There is no set formula for division of convoys into serials or march units other than the previously stated guidance that convoys of over 20 vehicles should be divided. However, the total convoy need not be divided into elements of less than 10 vehicles each. This is strictly a commander's call.

g. Plan a minimum time gap of 5 minutes between march units and 15 minutes between serials.

h. Determine position of march unit and serial commanders. Command and control vehicles should be positioned in the column where they can best supervise the column.

i. Obtain the assistance of military or civilian police whenever possible at critical areas through which the convoy will pass.

j. Convoy vehicles do not have priority over civilian traffic when not on a military reservation. The convoy commander has no authority to instruct military drivers to disregard traffic lights or other traffic control devices on public roads.

k. Assign radios to subordinate elements based on need and availability and ensure that all radio operators are trained in SOI use.

7. Prepare movement order using the format illustrated in FM 55-15, Figure B-5. This is written in standard five-paragraph field order format.

8. Prepare drivers:

a. Issue the movement order.

b. Ensure that all drivers and assistant drivers have in their possession a valid US Government Motor Vehicle Operator's Identification Card.

c. Give the drivers opportunity for eight hours' rest during the 12 hours prior to convoy departure time (if feasible).

d. Schedule time and place for combat inspections (weapons, uniforms, and personal equipment, food, water).

9. Schedule and prepare a convoy briefing covering the following items:

a. Situation:

1. Friendly forces.

2. Support units.

3. Enemy situation.

b. Mission:

1. Type of cargo (if any).

2. Origin.

3. Destination.

c. Execution:

1. General organization of convoy.
2. Time schedule.
3. Routes.
4. Convoy speed.
5. Catch-up speed.
6. Vehicle distance.
7. Emergency measures.
 - a. Accidents.
 - b. Breakdowns.
 - c. Separation from convoy.
 - d. Ambush.
 1. Medical support.
 2. Action of convoy personnel in the event of an ambush.
 3. Action of the security forces during ambush.

d. Administration and Logistics:

1. Control of personnel.
2. Billeting arrangements.
3. Messing arrangements.
4. Refueling arrangements.
5. Servicing of vehicles.

e. Command and Signal:

1. Location of convoy commander.

2. Designation of assistant convoy commander.
3. Action of the security force commander.
4. Serial commander's responsibility.
5. Hand and Arm signals.
6. Other prearranged signals.
7. Radio frequencies and call signs for:
 - a. Control personnel.
 - b. Security force commander.
 - c. Fire support elements.
 - d. Reserve security elements.
 - e. Medical evacuation support.

f. Safety:

1. Hazards of route and weather conditions.
2. Defensive driving.

10. Supervise Before Operations PMCS (follow the appropriate -10 manual).

- a. Check fuel levels.
- b. Check air hose couplings for connection and leakage.
- c. Check oil and lubrication levels.
- d. Check cooling systems for proper coolant level and leakage.
- e. Check brakes.
- f. Check tires for cuts and general conditions.
- g. Check batteries for obvious defects, such as cracked case, burnt, broken, or loose battery terminals.

11. Ensure pre-departure steps are followed IAW FM 55-30, Chapter 5.

- a. Check line-up of vehicles.
 1. Ensure march columns, regardless of size, have three parts.

A head is the first task vehicle of the column in the order of march. The pacesetter rides in this vehicle and sets the pace necessary to meet the travel schedule.

2. Ensure the main body of the column follows immediately after the first task vehicle. It consists primarily of vehicles carrying troops, equipment, and/or supplies.

3. Ensure the trail is the last element of the march column. The trail party is responsible for the maintenance and medical support for the rest of the column.

b. Check to see that vehicles are properly marked.

1. A blue flag on the left front of the first task vehicle.

2. A green flag on the left rear of the trail vehicle.

3. A black and white flag on the left front of the convoy or serial commander's vehicle.

4. A "convoy follows" sign on the front of the first task vehicle.

5. A "convoy ahead" sign on the rear of the last vehicle.

6. A "convoy commander" sign on the front and rear of the convoy commander's vehicle.

c. Select pacesetter. This is normally an experienced noncommissioned officer in the first vehicle that sets the pace and ensures the column is following the route.

d. Check weapons on the vehicles to make sure they are operational.

1. Correct minor deficiencies on the spot.

2. If major deficiencies exist, have the weapon and vehicle returned to the parent unit and request an operational replacement.

e. Check to ensure that the sandbags are installed correctly.

1. Cover the floors of troop-carrying vehicles with at least a double interlocking layer of sandbags.

2. Cover the cab floors of all vehicles with a double layer of sandbags.

f. Check to ensure the cargo is secured and covered to protect from prevailing weather conditions and pilfering, or to deny intelligence information.

g. Brief the drivers on the rules of the road, traffic laws and regulations, speed limits, time and distance gaps, routing plans, schedules, and march discipline.

h. Give the signal or order to start engines.

i. Give the signal or order to move out.

12. Enforce correct driving procedures while en route.

a. Immediate and effective response on all signals and orders

b. Prompt relaying of visual signals.

c. Strict obedience to traffic regulations, rules of the road, and instructions of highway regulations, traffic control, and command personnel.

d. Effective use, of cover, camouflage, dispersion, radio silence, blackout precautions, and other protective measures taken against enemy attack.

e. Correct speeds, distances, and proper positions within the column.

13. Instruct drivers on checks or duties at halts.

a. Inform the drivers of details at halts.

1. Time, duration, and purpose of convoy operations.

2. Review the location of convoy.

3. Review the duties of personnel during the convoy.

b. Check to see that the drivers perform during operational checks.

1. Tell the drivers to perform during-operation checks using the appropriate - 10 manual.

2. Tell the drivers to check for and have items repaired, fill fluid levels, or adjust drive belts or other items.

d. Check the security of the loads.

e. Check to see that drivers police the area before moving out.

f. Give the signal or order to reform and start engines.

g. Give the signal or order to move out.

14. Perform all required checks and duties at the RP.

a. Update the drivers on additional orders or instructions from the convoy commander.

1. Instruct the drivers to comply with the SOP in dispersing their vehicles.

2. Inform the drivers of the time and place to assemble for the return trip.

b. Check to see that drivers perform after-operation checks.

1. Tell the drivers to perform necessary after-operational checks using the appropriate -10 manual.

2. Tell the drivers to check for and have repaired, all discrepancies found, fill fluid levels, and adjust drive belts or other items.

c. Dismiss drivers.

NOTE: In order to plan a safe and successful convoy, you must determine your mission, summarize requirements, conduct route reconnaissance, request convoy clearance, plan convoy organization and control, review load plans, and prepare your drivers and your vehicles. The most important step in planning a convoy is coordination with the battalion S-3 and the appropriate movement control element. Lack of proper coordination jeopardizes the success of your movement. In planning convoy operations and control, you must carefully plan the route, assign serial/march unit commanders, and place a maintenance team in the rear to act as a trail party. Also, local traffic regulations must be strictly followed. In your final preparations, ensure that all drivers are properly licensed on their assigned equipment, and ensure that all vehicles are equipped with required safety and warning devices. Also ensure that proper vehicle markings are available at the time of movement.

References

1. FM 55-30
2. FM 101-5
3. FM 55-15
4. www.train.army.mil (conduct a library search using the word “convoy” and you will get results for various convoy topics, including an interactive program, have your AKO login information available).

Preparing for Deployment.

Conditions: You are a paralegal NCO in charge of Brigade Combat Team. One of your many responsibilities is make sure that the soldiers assigned to your section are prepared for deployment, whether it be real world or a training exercise. In both cases soldiers will be removed from their day-to-day working and living environments and will have to succeed in the deployed theater of operations.

Performance Steps:

1. Maintain an updated leader's book.

NOTE: Leader's books commonly contain but are not limited to the following information:

a. Personal information about your soldiers, such as – rank, name, SSN, DOB, DOR, BASD, PEBD, emergency POC, local address, HOR, spouse's name, children's names, parent's names and contact information, education level, personal goals, hobbies, and interests.

b. Professional information such as – APFT information, weapons qualification status, CTT testing, military driver's license, promotion information, record of counseling, copies of awards, promotion and assignment orders, previous duty stations, military schools and courses taken, functional areas of the MOS worked in, secondary MOS information, professional goals, family support plan if needed. It is also important to keep track of core MOS areas such as Claims, Legal Assistance, Military Justice, that the soldier is trained in and those areas that need training. One of the most important facts often overlooked is the need for your soldiers to have a security clearance. Getting a clearance is a time-consuming process and the earlier you start the process the better. Often times soldiers are not allowed access to tactical operations centers without a clearance. This will undoubtedly hinder your mission once deployed. Confirm/coordinate with your unit S2 or G2.

2. Soldiers prepare for deployment by ensuring that individual readiness is accomplished prior to deploying. Listed below are common things to take into consideration:

a. Finances - Ensure your soldiers have coordinated paying bills while deployed. This can be accomplished by allotments, direct draft from a checking account, or having a trusted family member or friend be responsible for paying the bill while the soldier is deployed.

b. POV storage – Ensure your soldiers have properly stored their POV. The unit usually controls this process but often soldiers leave their POV with a friend or family member. This is a choice the soldier can freely make however it is not uncommon for this situation to cause the soldier unwanted problems while deployed. The best bet is to advise the soldier on a course of action and point out pros and cons.

c. Family – Keep family members informed about the location of ACS, AER, the rear detachment command group, and FRG meetings. Make sure FRG phone rosters are available and that the family members have enough information available to take care of any need while the soldier is deployed.

d. Wills and power of attorneys – If your soldier needs a will or POA make sure it is taken care of well in advance of the deployment. Just prior to deploying, your 27D soldier will probably be busy preparing them for other soldiers.

3. Provide your soldiers training on common soldier tasks.

a. Soldiers will receive training on common tasks, such as NBC operations, weapons qualification, first aid, tactical vehicle operation and licensing, and radio operation training. Depending on the particular deployment, soldiers may also receive training on convoy operations, reaction to ambushes, call for/adjust for fire, mine awareness, and other basic soldier skills.

b. The unit also provides soldiers with an individual packing list. The paralegal NCOIC should review the unit packing list and ensure that it is detailed and complete for the conduct of legal operations. This list should be completed and distributed as soon as possible to assist with the acquisition of needed items and the proper packing of those items. Conduct a pre-combat check on the packing list.

4. Paralegals should be prepared to perform or assist on a wide variety of legal missions in the deployed environment. This fact emphasizes the need for a well-rounded training program before leaving for a deployment. Listed below are of a few of the areas your soldiers should be versed in:

a. Reports of Survey

b. Line of Duty Investigations.

c. AR 15-6 Investigations.

d. Claims (foreign especially).

e. Military Justice – Article 15, Court-Martial, Letter of reprimand etc.

f. Legal Assistance – various Service Members Civil Relief Act issues, POAs, Wills.

g. ROE, LOW.

h. EPW handling.

5. Prior to deployment, the legal section must also devise a plan to track, store, and file legal actions. Such a system is imperative to maintain accountability of legal actions when deployed.

6. All legal personnel should receive a briefing on the operational order that will guide their mission. They should also receive a briefing on the country and region that they are about to deploy to.

7. Paralegals will assume duties in the Tactical Operations Center (TOC) and therefore must become familiar with staff planning and the military decision-making process. Paralegals also must be trained on basic operational and international law issues, such as legal issues on the Rules of Engagement, Geneva Convention provisions on the treatment of detainees, and rules regarding targeting and collateral damage. An excellent resource for international and operational law issues is the Operational Law Handbook, published annually by the JAGC Legal Center and School and available for download on JAGCNet.

8. The NCOIC must ensure that training includes combat lifesaving skills, map reading, land navigation, convoy operations, Single Channel Ground and Air Radio System (SINCGARS) communication, weapon's proficiency, and driving and performing preventive maintenance on assigned vehicles.

9. Gather necessary supplies, equipment, and regulations to complete the mission. Suggestions on what to bring are listed below:

a. The [Judge Advocate War-Fighting System \(JAWS\)](#) is a rucksack deployable case that consists of a laptop computer, digital camera, printer, and scanner. This is the legal team's primary deployment operating system. The JAWS may be supplemented with other equipment based on lessons learned from current operations.

b. Legal teams have discovered that an all-in-one printer/copier/scanner is extremely durable and provides the essential capabilities of copying and scanning.

c. Legal teams have also discovered that USB Portable Storage Devices, more commonly known as thumb drives or pen drives, are the most durable and reliable piece of data storage equipment used during deployments. All personnel should have at least two, one for classified and one for unclassified data.

d. All legal teams should deploy with at least one notary seal.

e. The [Electronic Judge Advocate War-Fighting System \(e-JAWS\)](#) CD is a resource digital library, which contains publications, field manuals, regulations, pamphlets, and electronic forms.

f. The Deployed Judge Advocate Resource Library CD, available from the Center for Law and Military Operations, contains numerous source documents, information papers, training materials, legal annex examples, etc. to assist legal teams in preparing to deploy and conduct research while deployed.

g. Plan for instances where electronic equipment, such as computers, printers, and scanners, may not be available for use during deployments, in particular early in the deployment when access to electricity and the internet may not be possible. Develop a battle box containing hardcopies of reference materials. At a minimum, these materials should include the Manual for Courts-Martial, commonly used regulations and handbooks, in particular the latest Operational Law Handbook, and blank forms, such as General and

Special Power of Attorney forms, Article 15 forms, Sworn Statement forms, and Rights Waiver forms. Ideally, if the SJA Office is replacing another, the counterpart is a great resource on what to bring and what they can provide before they leave.

10. Train on convoy operations.

a. The convoy commander is responsible for all convoy preparations. The convoy commander determines timeline based on METT-TC:

1. Evaluate the **M**ission.
2. Evaluate potential **E**nemy threat.
3. Analyze **T**errain and weather.
4. Identify personnel and **T**roops available.
5. Identify available **T**ime for planning and execution.
6. Evaluate **C**ivilian impacts to the operation.

b. The convoy is normally protected by gun trucks, which provide the convoy with much needed firepower to deter and/or destroy an enemy threat. Many times the enemy will choose not to attack a well-armed convoy. Judge advocates and paralegals, therefore, must be trained on crew-served weapons to travel in a deployed environment.

c. Rehearsals are conducted so that convoy personnel know what is expected of everyone and who does what. Strip maps are prepared of the intended route and map reconnaissance is conducted so that everyone is familiar with the area of operation. Aid and litter teams are designated in case of casualties. Call signs and frequencies for medical evacuations (MEDEVACs) and close air support are confirmed. Security forces are identified for protection of the convoy.

d. While traveling in convoys to conduct legal operations, judge advocates and paralegals must also know how to react to an ambush. The part of the convoy that is in the kill zone and receiving fire must exit the kill zone as quickly as possible. If unable to exit the kill zone, personnel will dismount, take cover, and return fire on enemy positions. Normally, the security force will take action to neutralize the ambush while the convoy escapes from the kill zone. Reaction forces should be called in as soon as the ambush attack is launched. In an ambush situation, immediate and aggressive leadership are essential to limit casualties and damage to vehicles, and cargo.

11. Train as part of the staff of the unit you deploy with. There will be many opportunities for the legal section to take part in preparatory training exercises. Ensure that the legal section is included and takes an active role.

12. The TOC:

a. The paralegal NCOIC must also prepare other paralegals who are deploying to conduct operational law missions and assist judge advocates in manning the TOC. To enter the TOC personnel usually need a security clearance. Ensure your soldiers have the necessary clearance prior to deploying. Coordinate with your S2 or G2.

b. The TOC is a command post manned with general and special staff, both officers and enlisted soldiers, who are concerned with the current tactical operations and the tactical support of those operations.

c. The TOC monitors and assists in command and control by:

1. Maintaining contact and coordination with higher and adjacent units
2. Continuously updating the enemy situation
3. Planning Operations
4. Analyzing and disseminating tactical information
5. Maintaining situation maps

6. Requesting and synchronizing additional combat support (CS) and combat service support (CSS) for the battle.

The Tactical Operations Center: OSJA Functions.

d. One of the judge advocate's duties in the TOC is to provide international and operational law advice on the law of armed conflict, including the Hague and Geneva Conventions and customary international law. International law issues normally arise in decisions on lawful targets and the rules of engagement, treatment of enemy prisoners of war and civilian detainees, issues regarding displaced persons, use of landmines, and so on. The paralegal charged with assisting the judge advocate in manning the TOC must be trained to recognize international law issues in order to alert the judge advocate.

e. To perform duties in the TOC, the paralegal also must understand the Battlefield Operating Systems (BOS). The BOS are the physical means (soldiers, organizations, and equipment) used to accomplish the mission. The BOS consist of intelligence, maneuver, fire support, air defense, mobility, counter-mobility, survivability, combat service support (CSS), and command and control (C2).

1. Intelligence – the intelligence system plans, directs, collects, processes, produces and disseminates intelligence on the threat and environment.

2. Maneuver – maneuver systems move to gain positions of advantage against enemy forces. Infantry, armor, cavalry and aviation forces are organized, trained, and equipped primarily for maneuver

3. Fire Support – the fire support system consists of fires that directly support land, amphibious, and special operation forces in engaging enemy forces and facilities in pursuit of tactical and operational objectives.

4. Air Defense – the air defense system protects the force from air and missile attack and aerial surveillance.

5. Mobility – operations that preserve the friendly forces freedom of maneuver. Mobility missions include breaching obstacles, increasing battlefield circulation, improving or building roads, providing bridge and raft support, and identifying routes around contaminated areas.

6. Counter-Mobility – operations that deny mobility to enemy forces. Counter-Mobility missions include obstacle building and smoke generation.

7. Survivability – operations that protect friendly forces from the effects of enemy weapons systems.

13. The Center for Law and Military Operations (CLAMO) is the Judge Advocate General's Corps' central repository for all after-action materials pertaining to legal support to operations, both foreign and domestic. CLAMO maintains a website at www.jagcnet.army.mil, that contains AARs. These AARs should be reviewed by paralegal NCOICs prior to their deployments for lessons learned and other information that will assist them in preparing their own pre-deployment program. CLAMO has also published several lessons learned handbooks that should also be consulted for pre-deployment information.

References

1. FM 55-30
2. FM 101-5
3. FM 55015
4. FM 27-100
5. FM 3-0
6. FM 101-5
7. OPLAW Handbook

Performance Measures: None.

Information Paper

Handling Enemy Prisoners of War.

When enemy troops have been captured:

1. Capturing Troops Procedures.

a. Capturing troops are those troops that take initial custody of an enemy soldier when he surrenders. They may be combat forces, military police operating in a combat role, or combat service support troops. The procedures to be followed by all of them are the same.

b. It is the responsibility of the unit commander of U.S. Forces to ensure that their personnel are familiar with the Law of Land Warfare. It is also their responsibility to train their personnel in the proper actions to take when capturing enemy personnel. Upon initial capture, all persons are treated as Enemy Prisoners of War (EPW).

2. Search and Disarm.

a. The prisoner must first be disarmed and searched. This search is to locate concealed weapons. Capturing troops should also seek equipment and documents that may be of intelligence value. Until each EPW is searched, capturing troops must be particularly alert to prevent the use of concealed weapons, or the destruction of documents or equipment.

b. Prisoners should be permitted to retain all of their personal effects. They should also be permitted to retain items of defensive military equipment that are of no intelligence value (e.g., protective masks). When items of personal protection are seized, equivalent replacement items should be issued. For example, a helmet or protective mask with writing, diagrams, or unusual insignia might be seized. These must then be replaced until the original items are returned. Personal items include money and other valuables. Prisoners should retain their identification cards and tags, badges of rank and nationality, and articles having a sentimental or personal value. Although EPW should be permitted to retain eating utensils, the knives and forks should be removed. Care must be taken when items are seized that they can later be identified with the prisoner from whom they were taken. This is critical to the intelligence personnel. Additionally, some of the items may have to be returned to the prisoner at a later date.

c. A receipt will be given to the EPW from whom personal property or documents are taken. A copy of this receipt is given to the person in charge of the escort detail. He will turn the receipt over to the MP at the collecting point. The receipt will include:

1. Name, rank, and serial number of the EPW.
2. A brief description of the item taken.

3. Name, rank, SSN, and unit of the person that took it.

3. Segregate.

Segregation of EPW aids in the ease of their control. EPW should be segregated as quickly as possible. Segregation by categories first requires that individuals be identified. Time and language barriers do not normally permit a detailed interrogation at the point of capture. However, it may be possible to make at least a preliminary determination. For example, insignia and other indicators may allow the separation of officers from enlisted personnel. Males can be separated from females. When possible, EPW should be separated into the following categories:

- a. Officers.
- b. Noncommissioned officers.
- c. Other enlisted personnel.
- d. Sex.
- e. Deserters.
- f. Civilians.
- g. Nationality/ideology.

4. Segregation will facilitate the control of the prisoners. It also assists intelligence personnel during field interrogations. The above list represents an objective; it will often be difficult to meet all the categories.

5. Five S's and T.

a. A good method to remember the required actions by capturing troops is the five S's and T. They are:

- 1. Search. For weapons, military documents, or equipment, in the vicinity of capture, and tag with part C of the capture tag.
- 2. Segregate. By rank, nationality, sex.
- 3. Speed. Evacuate from point of capture quickly.
- 4. Silence. Prohibit talking among EPW, for ease of control.
- 5. Safeguard. To prevent harm or escape.

6. Tag. To provide information.

6. Capture Tags. (See an example at Figure 5-1)

The circumstances under which an individual is captured is important information. It will often be the most valid basis for determining status. Only the capturing troops have such knowledge. It is also critical intelligence information. This is particularly true of those EPW placed in medical channels or transported by helicopter, since they may end up far from the point of capture. It is important that the capturing troops complete a capture tag. The capture tag should include the following, as a minimum:

- a. Date and time of capture.
- b. Place of capture (grid coordinates).
- c. Capturing unit.
- d. Circumstances of capture (How was he captured?).

7. Capturing troops are also required to tag equipment, documents, and other items taken from the EPW. This helps link the items with the prisoner at a later date. Standard capture tags specified in Standardization Agreement (STANAG) 2044 are used by U.S. forces in NATO. The tag should be perforated in three parts. It should be of a durable material. Part A of the NATO standard capture tag is attached to the prisoner. Part C is attached to items taken from the prisoner. Part B, when used, is retained by the capturing unit according to local standing operating procedures (SOP). STANAG 2044 requires use of Part A and Part C of the standard capture tag. Using Part B is optional. When "issue" tags are not available, troops should obtain or manufacture their own field expedient. The most important thing is to convey the information.

Process/Classify Captured Personnel:

- 1. All captured personnel are treated as EPW until determined otherwise.
- 2. Captured personnel are placed into one of three broad categories. These are EPW, CI (Civilian Internees), and Retained Persons (RP). Innocent civilians are released immediately.
 - a. Innocent Civilian. These are individuals who have been accidentally caught up in the combat environment. This category would include refugees that have been inadvertently taken prisoner by combat units. Innocent civilians should be released from custody as quickly as possible. Transport to the point of capture or to their home if at all possible. The assistance of the G5 for refugee handling may be required. Innocent civilians can become a major category in counter-insurgency warfare.

ENEMY PRISONER OF WAR (EPW) CAPTURE TAG (Part A) For use of this form, see AR 190-8, the proponent agency is DCSOPS	
Attach this part of tag to EPW. (Do not remove from EPW.)	
1. Search - For weapons, military documents, or special equipment. 2. Silence - Prohibit talking among EPWs for ease of control. 3. Segregate - By rank, sex, and nationality. 4. Safeguard - To prevent harm or escape. 5. Speed - Evacuate from the combat zone. 6. Tag - Prisoners and documents or special equipment.	
DA FORM 5976, JAN 91	
UNIT RECORD CARD (Part B) Forward to Unit (Capturing unit retains for records.)	
Use string, wire, or other durable material to attach the appropriate section of this form to the EPW's equipment or property.	
DA FORM 5976, JAN 91	
DOCUMENT/SPECIAL EQUIPMENT/WEAPONS CARD (Part C) Attach this part of tag to EPW's retained property. (Do not remove from property.) As a minimum, the tag must include the following information: <ul style="list-style-type: none"> -- Item 1, date and time of capture. -- Item 8, capturing unit. -- Item 9, place of capture (grid coordinates). -- Item 10, circumstances of capture (how the EPW was captured). 	
DA FORM 5976, JAN 91	

1. DATE AND TIME OF CAPTURE		2. SERIAL NO. 0140030 A	
3. NAME		4. DATE OF BIRTH	
5. RANK	6. SERVICE NO.		
7. UNIT OF EPW		8. CAPTURING UNIT	
9. LOCATION OF CAPTURE (Grid coordinates)			
10. CIRCUMSTANCES OF CAPTURE	11. PHYSICAL CONDITION OF EPW	12. WEAPONS, EQUIPMENT, DOCUMENTS	
1. DATE AND TIME OF CAPTURE		2. SERIAL NO. 0140030 B	
3. NAME		4. DATE OF BIRTH	
5. RANK	6. SERVICE NO.		
7. UNIT OF EPW		8. CAPTURING UNIT	
9. LOCATION OF CAPTURE (Grid coordinates)			
10. CIRCUMSTANCES OF CAPTURE	11. PHYSICAL CONDITION OF EPW	12. WEAPONS, EQUIPMENT, DOCUMENTS	
1. DATE AND TIME OF CAPTURE		2. SERIAL NO. 0140030 C	
3. NAME		4. DATE OF BIRTH	
5. RANK	6. SERVICE NO.		
7. UNIT OF EPW		8. CAPTURING UNIT	
9. LOCATION OF CAPTURE (Grid coordinates)			
10. DESCRIPTION OF WEAPONS, SPECIAL EQUIPMENT, DOCUMENTS			

-Enemy Prisoner of War Capture Tag-
FIGURE 5-1

b. Categories of Captured Personnel. The following chart (see Figure 1-1) provides the factors which qualify a person to be placed in a category. Remember all personnel are treated as EPW until their status is determined to be otherwise.

2. Principles in Handling EPW/CI.

Certain principles must be adhered to for the U.S. to comply with its international obligations. Additionally, the treatment we afford EPW/CI may affect the manner in which the enemy treats our prisoners. These principles include:

- a. Humane treatment.
- b. Prompt evacuation from the combat zone.
- c. Provisions for the interrogation of EPW.
- d. Instruction of all troops in the provisions of international agreements and regulations relating to EPW/CI.
- e. Integration of procedures for the evacuation, control, and administration of EPW/CI with other combat support and combat service support operations.

3. Objectives of Handling EPW/CI.

There are many reasons for handling prisoners in a humane but firm and safe manner. The first, of course, is that it is the law. But beyond the requirements of law, there are logical reasons for the manner in which prisoners are handled.

a. Maximize Intelligence Information. Proper treatment, particularly immediately after the shock of battle, inclines prisoners to provide information. History has repeatedly shown that improper treatment only causes greater resistance, or just as bad from an intelligence point of view, causes prisoners to tell their captors what they think they want to hear. The information thus gained has little value. The conventions prohibit acts of coercion; they do not prohibit asking questions. In addition to information that the EPW may reveal verbally, his uniform, equipment, and papers he is carrying may reveal a great deal about the enemy.

b. Prevent Escape or Liberation. Every enemy soldier captured is one less soldier that our combat forces have to fight. Escapees can also provide a great deal of intelligence information to the enemy forces if their escape or liberation is successful. When prisoners are properly treated, they are less inclined to attempt to escape. It also aids in gaining their cooperation in daily routine, rather than active or passive resistance. Remember that just as it is your duty to attempt to escape when captured, the enemy soldier has the same duty. Your task is to prevent him from succeeding.

c. Promote Proper Treatment of Captured U.S. Personnel. Whether we like it or not, U.S. personnel will be captured by the enemy. If we treat enemy prisoners properly, there is a greater likelihood that they will treat our personnel in the same manner. In any case, improper treatment would certainly invite reprisals against them.

d. Weaken the Will of the Enemy to Resist. Fear of mistreatment is a deterrent to surrender. Atrocities embitter and strengthen the will of the enemy to resist. Decent treatment of prisoners encourages others to surrender. There were particularly strong examples of this during both the Korean and Vietnam conflicts.

e. Use EPW/CI as a Source of Labor. Enlisted prisoners may be used to work on many projects in the rear area. Their NCOs may be used to supervise them. Officers may volunteer to participate. There are restrictions on their employment, but their use frees our people for other jobs.

4. Prisoner Obligations.

An EPW/CI has two primary obligations. He is obliged to give his name, rank, serial number, and date of birth. This is all the information he is obliged to give. He may be questioned about other matters, but is not required to answer. No form of coercion may be used to force him to reveal any information. Secondly, he is obliged to obey the rules of the camp in which he is interned. EPW are subject to both their own military regulations and to the rules of the nation that captured them. If they violate such rules, they may be punished only after a fair and impartial trial.

5. Rights of EPW/CI.

All EPW have certain rights that are guaranteed them. As the capturing power, it is our responsibility to ensure these rights are not violated. All EPW/CI are accorded humane treatment. They are to be protected against acts of violence or intimidation, insults, or public curiosity. Medical care must be provided. Wounded, sick, and injured prisoners are evacuated through medical channels and are given the same medical treatment as U.S. personnel. Retained medical personnel may be used to treat EPW. All property taken from prisoners will be accounted for. It must be disposed of in accordance with the laws of war and U.S. regulations. Personal property of the prisoners, in particular, will be respected. All prisoners will be provided adequate food, shelter, and clothing. When possible, particular dietary habits of the prisoners will be respected. For example, Moslem or Jewish prisoners would not be fed pork if reasonably possible. Care and food will be at least equivalent to that afforded U.S. troops. EPW/CI are permitted mail privileges. There is no restriction on the number of letters or cards EPW may receive. If it is necessary to limit the number of cards and letters each detainee sends, the number will not be less than 2 letters and 4 cards monthly. These letters and cards will be written on DA Forms 2667-R and 2668-R respectively.

- END -

Operational Law Handbook.

The Operational Law Handbook produced by the International and Operational Law Department at the Judge Advocate General's Legal Center and School is an excellent source on a wide variety of topics to include, but not limited to:

1. Law of War
2. Rules of Engagement
3. Military Operations Other Than War (MOOTW)
4. Foreign and Deployment Claims.
5. Legal Basis for the Use of Force
6. Examples of legal annexes to the OPORD

The book is an essential item for all legal personnel, especially in the deployed environment. It is available for download from www.jagcnet.army.mil, or you can request a hard-copy by contacting:

in writing:

International and Operational Law Department
The Judge Advocate General's Legal Center and School
Charlottesville, VA 22903

by phone:

(434)971-3339

email:

clamo@hqda.army.mil

Another important tool available for order via JAGCNet.

**Electronic Judge Advocate War-Fighting System (e-JAWS)
Resource Deployment Library (RDL)**

This resource is designed to be a self-contained package of all electronic forms, publications and applications needed to succeed in legal operations in either a garrison or a field environment.

a. The CD-ROM set consists of ten disks as listed below:

- CD 1: The Judge Advocate General's School Publications (JA)
The Army Lawyer; 1995 to Present(TAL)
- CD 2: The Army Lawyer; 1971 to 1994 (TAL)
- CD 3 Military Law Review; 1958 to Present (MLR)
- CD 4: Department of The Army (DA) Publications including:
Army Regulations (ARs)
Department of the Army Pamphlets (DA Pams)
Department of the Army Circulars (DA Cirs)
Department of the Army Memorandums (DA Memos)
General Orders (GOs)
Headquarters, Department of the Army Letters (HQDA Letters)
Soldier's Manuals (SM)
- CD 5: Field Manuals (FM Series 1 to 3-101-1)
- CD 6: Field Manuals (FM Series 4-0 to 10-500-77)
- CD 7: Field Manuals (FM Series 10-512 to end)
- CD 8: MACOM Publications (FORSCOM, TRADOC, USAREUR and USFK)
- CD 9: Department of Defense Publications (DoD)
Joint Services Publications (JP)
National Guard Publications (NGB)
Other Miscellaneous Publications
Application Software (JAGC Specific and DoD)
- CD 10: Electronic Forms (Form Flow and Adobe PDF)

b. The DVD set consists of two disks as listed below:

- DVD 1: Publications listed in CD 1 through CD 4, and 8 (MACOM Pubs)
- DVD 2: Publications listed in CD 5 through CD 7, and CD 9 and 10
(including Electronic Forms and Applications Software)

Appendix A

Answer Key for Military Justice Exercises

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ For use of this form, see AR 27-10; the proponent agency is TJAG.				
<i>See Notes on Reverse Before Completing Form</i>				
NAME BUZZWORTHY, LISA B.	GRADE E4	SSN 444-11-3265	UNIT HHC, 754 th Aviation Bn, Fort Atterbury, IN 46124-9000	PAY (Basic & Sea/Foreign) \$1726.80
1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: ^{1J} In that you, did at Fort Atterbury, IN, on or about 1 Oct 04, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 0630 PT/accountability formation located adjacent to the HHC, 754 th AVN BN company headquarters. (see continuation sheet) 2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (<i>matters of defense</i>) or why punishment should be very light (<i>matters of extenuation and mitigation</i>). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. ^{2J} If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead. ^{3J} In deciding what you want to do you have the right to consult with legal counsel located at Bldg. 6287, Fort Atterbury, IN. You now have 48 hours to decide what you want to do. ^{4J}				
DATE 7 Oct 04 TIME 1815	NAME, GRADE, AND ORGANIZATION OF COMMANDER JULIE WOOD, LTC, HQs, 754 th AVN BN			SIGNATURE
3. Having been afforded the opportunity to consult with counsel, my decisions are as follow: (<i>Initial appropriate blocks, date, and sign</i>) a. <input type="checkbox"/> I demand trial by court-martial.. b. <input checked="" type="checkbox"/> I do not demand trial by court-martial and in the Article 15 proceedings: (1) I request the hearing be <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed. (2) A person to speak in my behalf <input type="checkbox"/> Is <input checked="" type="checkbox"/> Is not requested. (3) Matters in defense, mitigation, and/or extenuation: <input checked="" type="checkbox"/> Are not presented <input type="checkbox"/> Will be presented in person <input type="checkbox"/> Are attached.				
DATE 8 Oct 04	NAME AND GRADE OF SERVICE MEMBER LISA B. BUZZWORTHY, SPC			SIGNATURE
4. In a(n) <input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed hearing ^{5J} matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: ^{5J} ^{6J} Reduction to PV1(E1), suspended, to be automatically remitted if not vacated before 7 Jan 05; forfeiture of \$500.00 per month for two months; extra duty for 45 days; restriction to the limits of Fort Atterbury, IN for 45 days. 5. I direct the original DA Form 2627 be filed in the <input type="checkbox"/> Performance fiche <input type="checkbox"/> Restricted fiche of the OMPF. ^{7J} N/A				
6. You are advised of your right to appeal to the Cdr, DISCOM within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.				
DATE 8 Oct 04	NAME, GRADE, AND ORGANIZATION OF COMMANDER JULIE WOOD, LTC, HQs, 754 th AVN BN			SIGNATURE
7. (Initial appropriate block, date, and sign) a. <input type="checkbox"/> I do not appeal b. <input checked="" type="checkbox"/> I appeal and do not submit additional matters ^{8J} ^{9J} c. <input type="checkbox"/> I appeal and submit additional matters ^{8J} ^{9J}				
DATE 8 Oct 04	NAME AND GRADE OF SERVICE MEMBER LISA B. BUZZWORTHY, SPC			SIGNATURE
8. I have considered the appeal and it is my opinion that: The proceedings were conducted in accordance with law and regulation and the punishments imposed were not unjust nor disproportionate to the offense committed.				
DATE 9 Oct 04	NAME AND GRADE OF JUDGE ADVOCATE TYRONIUS LAW, CPT			SIGNATURE
9. After consideration of all matters presented in appeal, the appeal is: <input checked="" type="checkbox"/> Denied <input type="checkbox"/> Granted as follows: ^{10J}				
DATE 10 Oct 04	NAME, GRADE, AND ORGANIZATION OF COMMANDER MICHAEL SMITH, COL, HQs, 1 st AVN BDE			SIGNATURE
10. I have seen the action taken on my appeal.		DATE 10 Oct 04	SIGNATURE OF SERVICE MEMBER	
11. ALLIED DOCUMENTS AND/OR COMMENTS ^{11J} ^{12J} ^{13J} B/F DA Form 2823, SFC James, dtd 4 Oct 04; DA Form 4856, SGT Pile, dtd 1 Oct 04; MPR # 335-80-33LB, dtd 5 Oct 04.				

DA FORM 2627

Item 1, continued:

This is a violation of Article 86, UCMJ.

In that you at Fort Atterbury, IN, on or about 4 Oct 04, were disrespectful in language to SFC Michael R. James, a superior noncommissioned officer, then known by you to be a superior noncommissioned officer, by saying to him “get your lazy butt to work” or words to that effect. This is a violation of Article 91, UCMJ.

In that you, did, at Fort Atterbury, IN, on or about 3 Oct 04, at the corner of Battalion Avenue and Soldier Road, physically control a vehicle, to wit: 1995 Toyota Rav 4 passenger car, while the alcohol concentration in your breath was .105 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis. This is a violation of Article 111, UCMJ.

RECORD OF SUPPLEMENTARY ACTION UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10; the proponent agency is The Judge Advocate General.

NAME AND GRADE BUZZWORTHY, LISA B., E4	SSN 444-11-3265	UNIT HHC, 754 th AVN BN, Fort Atterbury, IN 46124-9000
TYPE OF SUPPLEMENTARY ACTION (OTHER THAN BY SUPERIOR AUTHORITY ACTING ON APPEAL) (Check appropriate box)		
<input type="checkbox"/> SUSPENSION (Complete item 1 below)	<input type="checkbox"/> MITIGATION (Complete item 2 below)	<input type="checkbox"/> REMISSION (Complete item 3 below)
<input type="checkbox"/> SETTING ASIDE (Complete Item 4 below)	<input checked="" type="checkbox"/> VACATION OF SUSPENSION (Complete item 5 below)	
1. SUSPENSION		
The punishment(s) of _____		
_____ imposed on the above service member on _____ (is) (are) suspended and will automatically be remitted if not vacated before _____ (date of punishment)		
2. MITIGATION		
The punishment(s) of _____		
_____ imposed on the above service member on _____ (is)(are) mitigated to _____ (date of punishment)		
3. REMISSION		
The punishment(s) of _____		
_____ imposed on the above service member on _____ (is) (are) remitted. (date of punishment)		
4. SETTING ASIDE		
The punishment(s) of _____		
_____ imposed on the above service member on _____ (is) (are) set aside on the basis that _____ (date of punishment)		
All rights, privileges, and property affected are hereby restored.		
5. VACATION OF SUSPENSION		
a. The suspension of the punishment(s) of <u>reduction to PV1 (E1)</u>		
_____ imposed on the above service member on <u>8 Oct 04</u> (is) (are) hereby vacated. The unexecuted portion(s) of the punishment(s) will be duly executed. (date of punishment)		
b. Vacation is based on the following offense(s): <u>In that you did, at Fort Atterbury, IN, on or about 14 Oct 04, behave yourself with disrespect toward CPT Marvin Manning, your superior commissioned officer, then known by you to be your superior commissioned officer, by saying to him "go sit on an improvised explosive device" or words to that effect. This is a violation of Article 89, UCMJ. (see continuation sheet)</u>		
c. The member (was) (was not) given an opportunity to rebut (para 3-25, AR 27-10).		
d. The member (was) (was not) present at the vacation proceeding (para 3-25, AR 27-10).		
ORIGINAL DA FORM 2627 (Check appropriate box)		
DIRECTED FOR FILING ON THE <input type="checkbox"/>	PERFORMANCE <input type="checkbox"/>	RESTRICTED FICHE OF THE OMPF. N/A
AUTHENTICATION (Check appropriate boxes)		
<input checked="" type="checkbox"/> BY MY ORDER:	<input checked="" type="checkbox"/> THE OFFICER WHO IMPOSED THE PUNISHMENT	
<input type="checkbox"/> THE SUCCESSOR IN COMMAND TO THE IMPOSING COMMANDER	<input type="checkbox"/> AS SUPERIOR AUTHORITY	
DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
15 Oct 04	JULIE WOOD, LTC, HQs, 754 th AVN BN	

DA FORM 2627-2

Item 5b, continued:

In that you, did, at Fort Atterbury, Indiana, on or about 14 Oct 04, behave yourself with disrespect toward CPT Marvin Manning, your superior commissioned officer, then known by you to be your superior commissioned officer, by contemptuously raising your hand in front of his face and then turning your back and walking away. This is a violation of Article 89, UCMJ.

Answer Key – Process Soldier for Pretrial Confinement

1. Checklist for Pretrial Confinement.
2. At the confinement facility by their medical personnel. Cite: AR 190-47, The Army Corrections System, paragraph 10-5(b)(2), covers the medical certificate.
3. R.C.M. 305
4. The SJA should be notified prior to confinement or as soon as practicable afterwards. Cite: AR 27-10 paragraph 5-14(a).
5. Consideration to physical size should be taken to ensure that the accused cannot overpower the escorts in an attempt to escape.
6. R.C.M. 305.

CHARGE SHEET**I. PERSONAL DATA**

1. NAME OF ACCUSED (<i>Last, First, MI</i>) WASHINGTON, KARL O.		2. SSN 008-88-7465	3. GRADE OR RANK SSG	4. PAY GRADE E6	
5. UNIT OR ORGANIZATION Co A, 1/12th IN Bn, Fort Atterbury, IN 46124-9000			6. CURRENT SERVICE		
			a. INITIAL DATE 23 Jan 03	b. TERM 6 years	
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED PRETRIAL CONFINEMENT	9. DATE(S) IMPOSED 7 October 2004		
a. BASIC	b. SEA/FOREIGN DUTY				c. TOTAL
\$2218.80	None				\$2218.80

II. CHARGES AND SPECIFICATIONS

10. CHARGE: I: VIOLATION OF THE UCMJ, ARTICLE 128.

Specification: In that SSG Karl O. Washington, U.S. Army, did, at Fort Atterbury, IN, on or about 6 October 2004, commit an assault upon Gloria Groves by striking her on the back with a stick and did thereby inflict grievous bodily harm upon her, to wit: seven deep cuts.

Charge II: Violation of the UCMJ, Article 134.

Specification: In that SSG Karl O. Washington, U.S. Army, did, at Fort Atterbury, IN, on or about 5 October 2004, wrongfully communicate to Gloria Groves a threat to kill her.

III. PREFERRAL

11a. NAME OF ACCUSER (<i>Last, First, MI</i>) JONES, STEVEN L.	b. GRADE CPT	c. ORGANIZATION OF ACCUSER Co A, 1/12th IN Bn
d. SIGNATURE OF ACCUSER		e. DATE 7 OCT 04

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 7th day of Oct, 20 04, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

THEODORE DAVIS

Typed Name of Officer

HHC, 1st IN Bde

Organization of Officer

CPT

Grade

Trial Counsel

Official Capacity to Administer Oath

(See R. C. M. 307(b)—must be commissioned officer)

Signature

12.

On 7 Oct, 20 04 the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

STEVEN L. JONES
Typed Name of Immediate Commander

Co A, 1/12th IN Bn
Organization of Immediate Commander

CPT
Grade

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1000 hours, 7 OCT 20 04 at HQ, 1/12th IN Bn,
1st Bde, 54th IN Div (Mech)
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

~~FOR THE~~¹ _____

JOSE V. PEREZ
Typed Name of Officer

COMMANDING
Official Capacity of Officer Signing

LTC
Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE

Referred for trial to the _____ court-martial convened by _____

_____, _____ 19 _____, subject to the following instructions:² _____

By _____ of _____

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____, 19 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1—When an appropriate commander signs personally, inapplicable words are stricken.

2—See R.C.M. 601(e) concerning instructions. If none, so state.

DEPARTMENT OF THE ARMY

1st Infantry Brigade
54th Infantry Division (Mechanized)
Fort Atterbury, Indiana 46124-9000

TTRZ-CG

17 October 2004

MEMORANDUM FOR Major Jose V. Orange, Headquarters and Headquarters Company, 1/12th Infantry Battalion, Fort Atterbury, Indiana 46124-9000

SUBJECT: Appointment of Article 32(b) Investigating Officer in the case of U.S. v. SGT Tim Money

1. You are hereby designated to investigate the attached charges in the case of SGT Tim Money, 006-44-3323, Company A, 2/12th Infantry Battalion, Fort Atterbury, Indiana 46124-9000, under Article 32, UCMJ.
2. Your investigation will be conducted IAW Article 32(b), UCMJ, R.C.M. 405, MCM (2002 Edition) and AR 27-10. Procedural guidance is contained in DA Pam 27-17.
3. Your investigation will be completed and forwarded to the Criminal Law Division, OSJA, Fort Atterbury, Indiana, not later than fifteen duty days from the date of this correspondence. You may approve reasonable defense-requested delays, not to exceed ten duty days in length, occasioned by scheduling conflicts or defense requests for witnesses, and such periods will be excluded from your allotted time. Any requested delays beyond twenty five duty days from the date of this correspondence will be immediately forwarded through the trial counsel to me for action. Within 72 hours of completion of your investigation you will deliver the original Investigating Officer's Report, DD Form 457, with enclosures, and a detailed chronology of the investigation to the Criminal Law Division, OSJA, Fort Atterbury, Indiana.
4. Your clerical and administrative support will be provided by SPC Amanda Kingsbury, of the 1st Brigade Legal Office. You may contact her at 887-9635. The duty uniform should be worn at this hearing to facilitate witnesses returning to regular duties.
5. You are reminded that Article 98, UCMJ, prohibits any unnecessary delay in the processing of court-martial charges. This investigation is your primary duty until completed and takes precedence over all other assignments, including field duty, scheduled leave or TDY.

MICHAEL S. JONES
COL, IN
Commanding

Answer Key: Prepare and Process Article 32 Investigation

1. R.C.M. 405 covers pretrial investigations.
2. The investigating officer should be in the rank of Major or higher or one with legal training. R.C.M. 405(d)(1) discussion.
3. DA PAM 27-17 covers pretrial investigations.
4. FALSE. R.C.M. 405(a)
5. TRUE. R.C.M. 405(d)(1)
6. FALSE. R.C.M. 405(c)
7. Yes. DA PAM 27-17, para. 2-1(d)
8. FALSE. R.C.M. 405(h)(3)
9. The primary purpose of the investigation required by Article 32 and this rule is to inquire into the truth of the matters set forth in the charges, the form of the charges, and to secure information on which to determine what disposition should be made of the case. The investigation also serves as a means of discovery. The function of the investigation is to ascertain and impartially weigh all available facts in arriving at conclusions and recommendations, not to perfect a case against the accused. R.C.M. 405(a) discussion.
10. FALSE: DA PAM 27-17 para. 1-2(e).
11. TRUE. R.C.M. 405(d)(3)

12.

On _____, _____, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

Typed Name of Immediate Commander

Organization of Immediate Commander

Grade

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____, _____ at _____
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹ _____

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY
HQ's 1/12th Infantry Battalion

b. PLACE
Fort Atterbury, IN 46124-900

c. DATE (YYYYMMDD)
20041109

Referred for trial to the _____ Summary _____ court-martial convened by this detail of MAJ Jason McKany as a summary
court-martial on _____,

_____ 9 November _____, 2004 _____, subject to the following instructions: ²

NONE.

By _____ of _____
Command or Order

JOSE V. PEREZ
Typed Name of Officer

Commanding
Official Capacity of Officer Signing

Grade

Signature

15.

On _____ 9 November _____, 2004 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

THEODORE DAVIS
Typed Name of Trial Counsel

Captain
Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

12.

On _____, _____, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

Typed Name of Immediate Commander

Organization of Immediate Commander

Grade

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____, _____ at _____
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹ _____

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY
HQ's 1st Bde, 54th ID (M)

b. PLACE
Fort Atterbury, IN 46124-9000

c. DATE (YYYYMMDD)
20041110

Referred for trial to the _____ Special _____ court-martial convened by _____ court-martial convening order # 1, dated _____,

_____ 13 June _____, 2004 _____, subject to the following instructions: ²

NONE.

By _____ of _____
Command or Order

DAVID TAHOE
Typed Name of Officer

Commanding
Official Capacity of Officer Signing

Colonel
Grade

Signature

15.

On _____ 10 November _____, 2004 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

THEODORE DAVIS
Typed Name of Trial Counsel

Captain
Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

12. On _____, _____, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

Typed Name of Immediate Commander

Organization of Immediate Commander

Grade

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at _____ hours, _____, _____ at _____
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹ _____

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY
HQ's 54th ID (M)

b. PLACE
Fort Atterbury, IN 46124-9000

c. DATE (YYYYMMDD)
20041115

Referred for trial to the _____ General _____ court-martial convened by _____ court-martial convening order # 2, dated _____,

_____ 2 June _____, 2004 _____, subject to the following instructions: ²

This case is to be tried as a non-capital case.

By _____ Command _____ of _____ MAJOR GENERAL GUADALUPE O. BRONX
Command or Order

HELEN MORGAN
Typed Name of Officer

Senior Paralegal Noncommissioned Officer
Official Capacity of Officer Signing

Master Sergeant
Grade

Signature

15. On _____ 15 November _____, 2004 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

THEODORE DAVIS
Typed Name of Trial Counsel

Captain
Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

CONFINEMENT ORDER				
1. PERSON TO BE CONFINED			2. DATE (YYYYMMDD)	
a. NAME (Last, First, Middle) RAMIREZ, ALEX		b. SSN 339-84-3219		20041030
c. BRANCH OF SERVICE Army	d. GRADE E4	e. MILITARY ORGANIZATION (From): HHC, 2/12th IN Bn, Fort Atterbury, IN 46124-9000		
TYPE OF CONFINEMENT				
a. PRE-TRIAL <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		b. RESULT OF NJP <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		
c. RESULT OF COURT MARTIAL: <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES				
TYPE: <input type="checkbox"/> SCM <input checked="" type="checkbox"/> SPCM <input type="checkbox"/> GCM <input type="checkbox"/> VACATED SUSPENSION				
4. OFFENSES/CHARGES OF UCMJ ARTICLES VIOLATED: Art 126: On 14 Jun 04, set fire to an inhabited dwelling, to wit: bldg. 1667 the barracks of HHC, 2/12th IN Bn, property of the US Army, of a value of approx. \$650,000.00.				
5. SENTENCE ADJUDGED: Confinement for one year; and reduction to PV1(E1).			b. ADJUDGED DATE (YYYYMMDD): 20041030	
6. IF THE SENTENCE IS DEFERRED, THE DATE DEFERMENT IS TERMINATED:				
7. PERSON DIRECTING CONFINEMENT				
a. TYPED NAME, GRADE AND TITLE: TOM BRADY, CPT, Trial Counsel		b. SIGNATURE		c. DATE (YYYYMMDD) 20041030
8.a. NAME, GRADE, TITLE OF LEGAL REVIEW AND APPROVAL BENJAMIN PIERCE, MAJ, Senior Trial Counsel		b. SIGNATURE:		c. DATE (YYYYMMDD) 20041030
MEDICAL CERTIFICATE				
9a. The above named inmate was examined by me at _____ on _____ and found to be <input type="checkbox"/> Fit <input type="checkbox"/> Unfit <div style="text-align: center; font-size: small;">(Time) (YYYYMMDD)</div> for confinement. I certify that from this examination the execution of the foregoing sentence to confinement <input type="checkbox"/> will <input type="checkbox"/> will not produce serious injury to the inmate's health.				
b. The following irregularities were noted during the examination (If none, so state):				
c. HIV Test administered on (YYYYMMDD): _____				
d. Pregnancy test administered on (YYYYMMDD): _____ <input type="checkbox"/> N/A				
10. EXAMINER				
a. TYPED NAME, GRADE AND TITLE:		b. SIGNATURE		c. DATE (YYYYMMDD)
RECEIPT FOR INMATE				
11.a. THE INMATE NAMED ABOVE HAS BEEN RECEIVED FOR CONFINEMENT AT: _____ <div style="text-align: center; font-size: small;">(Facility Name and Location)</div> ON _____ AND TIME: _____ <div style="text-align: center; font-size: small;">(YYYYMMDD) (Time)</div>				
b. PERSON RECEIPTING FOR INMATE TYPED NAME, GRADE AND TITLE:		c. SIGNATURE:		d. DATE (YYYYMMDD)
				e. TIME

RECORD OF TRIAL BY SUMMARY COURT-MARTIAL				
1a. NAME OF ACCUSED (<i>LAST, First, MI</i>) David, Joe M.	b. GRADE OR RANK PFC	c. UNIT OR ORGANIZATION OF ACCUSED Co A, 1/12th IN Bn, Fort Atterbury, IN 46124-9000	d. SSN 999-00-1433	
2a. NAME OF CONVENING AUTHORITY (<i>Last, First, MI</i>) Clark, Nathan A.	b. RANK LTC	c. POSITION Commander	d. ORGANIZATION OF CONVENING AUTHORITY HQ, 1/12th IN Bn, 1st Bde, Fort Atterbury, IN 46124-9000	
3a. NAME OF SUMMARY COURT-MARTIAL (<i>If SCM was accuser, so state.</i>) Welsh, Larry T.	b. RANK MAJ	c. UNIT OR ORGANIZATION OF SUMMARY COURT-MARTIAL HHC, 1/12th IN Bn, Fort Atterbury, IN 46124-9000		
(Check appropriate answer)				YES NO
4. At a preliminary proceeding held on <u>9 May</u> , 20 <u>04</u> the summary court-martial gave the accused a copy of the charge sheet.				X
5. At a preliminary proceeding the summary court-martial informed the accused of the following:				X
a. The fact that the charge(s) had been referred to a summary court-martial for trial and the date of referral.				X
b. The identity of the convening authority.				X
c. The name(s) of the accuser(s).				X
d. The general nature of the charge(s).				X
e. The accused's right to object to trial by summary court-martial.				X
f. The accused's right to inspect the allied papers and immediately available personnel records.				X
g. The names of the witnesses who could be called to testify and any documents or physical evidence which the summary court-martial expected to introduce into evidence.				X
h. The accused's right to cross-examine witnesses and have the summary court-martial cross-examine on behalf of the accused.				X
i. The accused's right to call witnesses and produce evidence with the assistance of the summary court-martial if necessary.				X
j. That during the trial the summary court-martial would not consider any matters, including statements previously made by the accused to the summary court-martial, unless admitted in accordance with the Military Rules of Evidence.				X
k. The accused's right to testify on the merits or to remain silent, with the assurance that no adverse inference would be drawn by the summary court-martial from such silence.				X
l. If any findings of guilty were announced, the accused's right to remain silent, to make an unsworn statement, oral or written, or both, and to testify and to introduce evidence in extenuation or mitigation.				X
m. The maximum sentence which could be adjudged if the accused was found guilty of the offense(s) alleged.				X
n. The accused's right to plead guilty or not guilty.				X
6. At the trial proceeding held on <u>10 May</u> 20 <u>04</u> , the accused, after being given a reasonable time to decide, <input type="checkbox"/> did <input checked="" type="checkbox"/> did not object to trial by summary court-martial. (Note: The SCM may ask the accused to initial this entry at the time the election is made.) (Initial)				
7a. The accused <input type="checkbox"/> was <input checked="" type="checkbox"/> was not represented by counsel. (<i>If the accused was represented by counsel, complete b, c, and d below.</i>)				
b. NAME OF COUNSEL (<i>Last, First, MI</i>)				c. RANK (<i>If any</i>)
d. COUNSEL QUALIFICATIONS				

DD Form 2329

8. The accused was arraigned on the attached charge(s) and specification(s). The accused's pleas and findings reached are shown below:

CHARGE(S) AND SPECIFICATION(S)	PLEA(S)	FINDINGS (Including any exceptions and substitutions)
Charge I: Article 86.	Guilty.	Guilty.
Specification 1: Unauthorized absence from unit from 2 Apr 04 to 30 Apr 04.	Guilty, except the figure "30", substituting therefore the figure "29"; to the excepted figure, Not Guilty, to the substituted figure, Guilty.	Guilty, except the figure "30", substituting therefore the figure "29"; to the excepted figure, Not Guilty, to the substituted figure, Guilty.
Specification 2: Failure to go to appointed place of duty, 0730 formation on 2 May 04.	Guilty.	Guilty.
Charge II: Article 134.	Not Guilty.	Guilty.
Specification: Drunk and disorderly on 27 Mar 04, which conduct was of a nature to bring discredit upon the armed forces.	Not Guilty.	Guilty.

9. The following sentence was adjudged: To forfeit \$100.00; and to be restricted to the limits of Fort Atterbury, IN for two months.

10. The accused was advised of the right to request that confinement be deferred. (Note: When confinement is adjudged.)

☐ YES NA ☐ NO

11. The accused was advised of the right to submit written matters to the convening authority, including a request for clemency, and of the right to request review by the Judge Advocate General.

☒ YES ☐ NO

12. AUTHENTICATION

Signature of Summary Court-Martial

10 May 04

Date

13. ACTION BY CONVENING AUTHORITY
The sentence is approved and will be executed.

NATHAN A. CLARK
Typed Name of Convening Authority

Lieutenant Colonel

Rank

Signature of Convening Authority

Commanding
Position of Convening Authority

19 May 04

Date

UNITED STATES

v.

SPECIALIST QUIMBY CLUNKLEDORF

U.S. ARMY

543-99-7546

C Co, 3/12th IN BN, Fort Atterbury, IN

46124-9000

UNITED STATES ARMY

CERTIFICATE OF CORRECTION

12 MAY 04

The record of trial in the above case, which was tried by the general court-martial convened by Court-Martial Convening Order Number 2, Headquarters, 54th Infantry Division (Mechanized), Fort Atterbury, IN, dated 3 November 2003, as amended by Court-Martial Convening Order Number 7, Headquarters, 54th Infantry Division (Mechanized), Fort Atterbury, IN, dated 13 February 2004, at Fort Atterbury, IN 46124-9000, on 17 March 2004, is corrected by insertion of "The detailed reporter was sworn." on page 11, immediately following line 3.

This correction is made because the original Record of Trial mistakenly omitted the fact that the detailed reporter had been sworn.

Substitute authentication by the trial counsel is authorized pursuant to RCM 1104(a)(2)(b) because the military judge has been retired from active duty and is not available.

All parties were given notice of this correction and permitted to examine and respond prior to the authentication of this Certificate of Correction. RCM 1104(d) has been complied with.

A copy of this Certificate of Correction is being served on the accused by certified mail, return receipt requested, and will be sent for attachment to the record of trial when received.

TOM BRADY
CPT, JA
Trial Counsel

DEPARTMENT OF THE ARMY REPORT OF RESULT OF TRIAL

For use of this form, see AR 27-10; the proponent agency is OTJAG

TO:
Commander, 54th Infantry Division, Fort Atterbury, Indiana 46124-9000

1. Notification under R.C.M. 1101 and AR 27-10, paragraph 5-30 is hereby given in the case of the United States v _____
PV2 MUNIZ, Frank R., 999-00-1405, A Co, 1/12th IN BN, Fort Atterbury, IN 46124-9000

2. Trial by General court-martial on 2 November, 2004 at Fort Atterbury, Indiana 46124

convened by: CMCO Number 1 HQ, 54th ID (M), Fort Atterbury, Indiana 46124-9000, dated 13 Jun 04,

as amended by CMCO No 2, HQ, 54th Infantry Division (Mechanized), Fort Atterbury, IN 46124-9000, dated 31 Oct 04

3. Summary of offenses, pleas, and findings:

CH	ART UCMJ	SPEC	BRIEF DESCRIPTION OF OFFENSE(S)	PLEA	FINDING
I	128	The	Aggravated assault inflicting a deep gash on the head on 25 Sep 04	Guilty	Guilty
II	134	The	Kidnapping on 19 Sep 04	Guilty	Guilty

4. SENTENCE: To be confined for six years; total forfeiture of all pay and allowances; and to be reduced to PV1(E1); and a bad-conduct discharge

5. Date sentence adjudged and effective date of any forfeiture or reduction in grade (YYYYMMDD): 20041102
(See UCMJ Articles 57-58b and R.C.M. 1101.)

6. Contents of pretrial agreement concerning sentence, if any:
None.

7. Number of days of presentence confinement, if any: 37

8. Number of days of judge-ordered administrative credit for presentence confinement or restriction found tantamount to confinement, if any: 37

9. Total presentence confinement credit toward post-trial confinement: 37

10. Name(s) and SSN(s) of companion accused or co-accused, if any:
None.

11. DNA processing IAW 10 U.S.C. § 1565 ☒ is ☐ is not required.

12. Conviction(s) ☐ does ☒ does not require sex offender registration IAW 42 U.S.C. § 14071.

CF:
Cdr, Co A., 1/12th IN BN; Cdr, 1/12th IN BN; Cdr, 54th ID (M); SJA, 54th IN (M; Confinement Facility, Service Member, Defense Counsel, FAO, PSB.

TYPED NAME

THOMAS BRADY

SIGNATURE

RANK

Captain

BRANCH OF SERVICE

Army

Answer Key for Prepare a Report of Judicial Disciplinary Activity in the Army

1. True. AR 27-10 paragraph 15-1(a).
2. To Clerk of Court (JALS–CC), U.S. Army Legal Services Agency, 901 North Stuart Street, Arlington, VA 22203, not later than 5 working days after the last day of the month, or if the GCM jurisdiction is dissolved, as soon as possible after the dissolution. AR 27-10 paragraph 15-3(a).
3. True. AR 27-10 paragraph 15-4.
4. No. AR 27-10 paragraph 15-5(f).
5. AR 27-10 table E-1.
6. True. AR 27-10 paragraph 15-5(f), and 21-10.

Court-Martial Convening Order Number 86 was the last of a series for 2003.

DEPARTMENT OF THE ARMY
Headquarters, 1st Brigade, 54th Infantry Division (Mechanized)
Fort Atterbury, Indiana 46124-9000

COURT-MARTIAL CONVENING ORDER
NUMBER 1

13 Jan 04

A special court-martial is convened with the following members:

MAJ PAUL D. DUKE, 999-00-1410, QM, HHC, 3/12th IN Bn
MAJ BOB L. CALL, 999-00-1411, IN, HHC, 1st Bde
CPT ROB D. DAVIES, 999-00-1420, AG, HHC, 1/12th IN Bn
CPT PAUL D. LOVE, 999-00-1415, IN, Co D, 2/12th IN Bn
1LT FRED ORFF, 999-00-1417, IN, Co A, 1/12th IN Bn

FRANK R. MEYERS
COL, IN
Commanding

DEPARTMENT OF THE ARMY
Headquarters, 1st Brigade, 54th Infantry Division (Mechanized)
Fort Atterbury, Indiana 46124-9000

COURT-MARTIAL CONVENING ORDER
NUMBER 2

31 May 04

CPT BOB L. STICK, 999-00-1413, AR, Co. C, 1/12th IN Bn, is detailed to the special court-martial convened by order number 1, this headquarters, dated 13 Jan 04, vice CPT ROB D. DAVIES, 999-00-1420, AG, HHC, 1/12th IN Bn, relieved for the case of SPC John M. Smith, 999-00-1542, Co A, 3/12th IN Bn, only.

BY THE ORDER OF COLONEL MEYERS:

DISTRIBUTION:

CPT Stick (1)
CPT Davies (1)
Cdr, 54th IN Div (Mech)(SJA)(1)
Record of Trial (1)
Record Set (1)
Reference Set (1)

LULA M. BELL
CPT, AG
Adjutant

SUBPOENA

The President of the United States, to Mrs. Susan H. Doherty

(Name and Title of Person being Subpoenaed)

You are hereby summoned and required to appear on the 2nd day of November, 20 04, at 7:30

o'clock A.M., at Bldg. 3 Rm. 7, Fort Atterbury, IN 46124-9000, (before _____)

(Name and Title of Deposition Officer)

~~designated to take your deposition~~ (a general court-martial of the United States) ~~(a court of inquiry)~~, appointed

by CMCO 1, HQ, 54th Infantry Division (Mechanized), dated 13 Jan

(Identification of Convening Order or Convening Authority)

20 04, to testify as a witness in the matter of United States v. Martin

(Name of Case)

(and bring with you the video tape recorded on 22 Sep 04, depicting PFC John Martin entering the bank with a weapon.)

(Specific Identification of Documents or Other Evidence)

Failure to appear and testify is punishable by a fine of not more than \$500 or imprisonment for a period of not more than six months, or both. 10 U.S.C. § 847. Failure to appear may also result in your being taken into custody and brought before the court-martial (_____) under a Warrant of Attachment (DD Form 454). Manual for Courts-Martial R.C.M. 703(e)(2)(G).

Bring this subpoena with you and do not depart from the proceeding without proper permission.

Subscribed at Fort Atterbury, IN this 17th day of October 20 04.

(Signature (See R.C.M. 703(e)(2)(C)))

TOM BRADY, CPT, JA, Trial Counsel

The witness is requested to sign one copy of this subpoena and to return the signed copy to the person serving the subpoena.

I hereby accept service of the above subpoena.

Signature of Witness

NOTE: If the witness does not sign, complete the following:

Personally appeared before me, the undersigned authority, _____,

who, being first duly sworn according to law, deposes and says that at _____, on _____

19 _____, he personally delivered to _____ in person a duplicate of this subpoena.

Grade

Signature

Subscribed and sworn to before me at _____ this _____ day of

_____ 19 _____.

Grade

Official Status

Signature

TRAVEL ORDER

Payment of travel allowances is authorized pursuant to 10 U.S.C. § 847 and 28 U.S.C. § 1821. You should travel from WATERVILLE, INDIANA in sufficient time to arrive at Bldg. 1, Rm 4, Fort Atterbury, IN on the date and at the time specified. You will be paid fees and expenses for attendance at the specified hearing and travel directly to and from that place. You may travel by ☐ rail, ☐ commercial or military aircraft, ☐ bus, or ☒ privately owned automobile.

You ☐ have ☒ have not been given a "Government Transportation Request" to exchange for commercial tickets. No mileage will be paid for any transportation provided by the Government in kind or by Government Transportation Request. If a Government Transportation Request is not given to you and you travel by commercial carrier at personal expense, reimbursement for your cost of transportation will be limited to:

- a. The least costly regularly scheduled air service between the points involved; or
- b. The cost of the rail fare and a lower berth, or the lowest first-class rail accommodation available at the time reservations were made; or
- c. Actual cost of commercial bus fare.

If you travel by private automobile, you will be reimbursed at the rate of (*twenty cents \$.20*) \$.375 a mile, plus the cost of necessary parking fees, bridge, ferry, and other highway tolls incurred while traveling under this travel order. The total reimbursement will be limited to the cost of travel by the usual mode of common carrier, including per diem. Receipts and ticket stubs will be required to support your claim for cost of transportation and subsistence for each item in excess of (*\$15.00*) _____.

☐ You will be traveling to a high-cost area.

The travel regulations designate certain cities as high cost areas. Because your attendance requires travel to one of these cities, you will be authorized an actual expense allowance instead of a per diem allowance. You will be reimbursed for the actual expenses incurred, not to exceed the maximum amount prescribed for the city involved. The expenses may include lodgings; meals, tips to waiters, bellboys, maids, porters; personal laundry, pressing and dry-cleaning; local transportation (*including usual tips*) between places of lodging and duty; and other necessary expenses. You must itemize your daily actual expenses on your claim and receipts for lodging and any items over (*\$15.00*) _____ are required.

☒ You will not be traveling to a high-cost area.

Because you are not traveling to a high-cost area, you will be entitled to a per diem allowance to cover your expenses for lodging, meals, and incidentals. While traveling and attending the specified hearing within the continental United States, you will be authorized a per diem equal to the daily average you pay for lodging, plus (*\$23.00*) \$45.00 per day for meals and incidentals, rounded off to the next dollar. If the resulting amount is more than the maximum per diem allowable, which is (*\$50.00*) \$50.00, then you will be reimbursed only the maximum per diem authorized. You are required to state on your reimbursement claim that the per diem claimed is based on the average cost to you for lodging while on required travel within the continental United States during the period covered by the claim. Receipts are required for lodging. The per diem allowance for travel overseas is based on rates set by the Department of State or by the Department of Defense, and you will be reimbursed the amount specified for the particular overseas area involved.

You are entitled to an attendance fee of (*\$30.00*) \$45.00 per day under 28 U.S.C. § 1821.

Address any inquiries regarding the matter to: CPT Tom Brady, 445 Abby Ln., Fort Atterbury, IN 46124-9000

This is travel order number 04-28, dated 29 Sep 04,
issued by (*headquarters*) HQ, 54th Infantry Division (Mechanized).
TDN. Accounting Citation 0000000432-998443-88222-0428.

FOR THE COMMANDER

TOM BRADY

Typed Name of Approving Official

PEN E. PINCHER

Typed Name of Authenticating Official

Signature of Approving Official

Signature of Authenticating Official

ADVANCED TRAVEL ALLOWANCE
CLAIMS FOR WITNESS ATTENDANCE FEES, TRAVEL, AND
MISCELLANEOUS EXPENSES

Previous editions obsolete
NSN 7540-00-634-4347

PART I - ATTENDANCE CERTIFICATION

1. General Information

a. Witness Name Ty Law
b. Witness Address
Street 701 Patriots Way
City Worcester State MA Zip 04225-8888
c. U.S. Citizen: Yes (X) No () Alien: Legal () Illegal ()
d. Case Name US v. Manning
e. Case Number NA
f. District or Location Fort Atterbury, IN

2. Travel and Attendance Information NA

a. Dates of Travel From Residence to Case Location: From _____ To _____
b. Dates of Travel From Case Location to Residence: From _____ To _____
c. Dates of Attendance: From _____ To _____

3. Certification

I certify that the witness named above attended in the case or matter indicated and is entitled to the statutory allowances for attendance and travel. In the proceeding before United States Magistrate where more than four witnesses were called, the Magistrate also certifies that the approval and certificate of the U.S. Attorney were first obtained.

TOM BRADY, CPT, JA
Trial Counsel

7 Feb 04

(Signature)

(Title)

(Date)

PART II - WITNESS CLAIM FOR FEES AND ALLOWANCES

	Rate	No. of Days	Amount Claimed Paid	Totals
1. Attendance Fees				
a. Fact, Pretrial Conference & Detained Witness	<u>\$30.00</u>	<u>1</u>	<u>\$30.00</u>	
Total Attendance Fees				<u>\$30.00</u>
2. Mileage Allowance (Indicate type of privately owned vehicle: (auto) (motor-cycle) (airplane))				
	Rate	No. of Miles	Amount Claimed	Paid
a. From Residence to Case Location (and Return)	<u>.24</u>	<u>280</u>	<u>\$67.20</u>	
b. From Hotel/Motel to Court (or Court to Hotel/Motel)			<u>NA</u>	
Total Mileage Allowance				<u>\$67.20</u>
3. Subsistence Per Diem Rate: _____ or HRGA Rate: _____ (HRGA: High Rate Geological Area)				
	Rate	No. of Days	Amount Claimed	
a. Meals			<u>\$</u>	
b. Lodging			<u>\$</u>	
Total Subsistence Allowance				<u>\$ None</u>
4. Miscellaneous Allowances (See Item 8 Below)				
			Amount Claimed	
a. Common Carrier			<u>\$</u>	
b. Parking Fees, Tolls, Taxi Fares			<u>\$</u>	
Total Miscellaneous Allowances				<u>\$ None</u>
5. Total Amount Claimed (Items 1-4, Part II) Paid				<u>\$97.20</u>
6. Less Outstanding Check or Cash Advances				<u>\$</u>
7. Net Amount Claimed by Witness Paid to witness				<u>\$97.20</u>

8. Use this space to itemize your expenses from Item 4, Part II above. Receipts are required for all common carrier and parking fees, and for all other single items in excess of \$15.00.

NA

Paid by Check No. _____

Paid by Cash \$ _____

(Signature of Payee)

(Date)

9. Witness Certification

I certify the above data is correct and that payment has not been received, and that at the time of travel and attendance I (was) (was not) a U.S. Government employee and I (was) (was not) a citizen of the United States. (If not a citizen, present your Alien Registration Record with this form.) I (did) (did not) receive a Government Transportation Request to pay for my official travel.

ADVANCE TRAVEL ALLOWANCES

(Signature)

(Date)

**PUBLIC VOUCHER
FOR
FEES AND MILEAGE OF WITNESSES**

Voucher No. _____

Schedule No. _____

Case No. _____

U.S. _____ **DEPARTMENT OF THE ARMY**
(Department, Bureau, or Establishment)

The UNITED STATES, Dr.

To payees whose claims are attached hereto, for travel made, services rendered, and /or per diem in lieu of subsistence as witnesses for the United States before the

General Court-Martial
(Name of court or board)

at Fort Atterbury, Indiana
(Location)

during the period from 12 February to 12 February, 20 04

in the case of US v. Manning

SUMMARY OF PAYMENTS

To one payee(s) listed on one sheet(s): Total amount of voucher, \$ 97.20

I certify that this voucher, consisting of one sheet(s), is correct and proper for payment in

the amount of \$ 97.20

(Authorized certifying officer)

7 February 2004
(Date)

TOM BRADY, CPT, JA, Trial Counsel
(Title)

ACCOUNTING CLASSIFICATION

2102020 76-0005 P200000-2110 S09419 (202890.N00013) JAG 69

Paid by check(s) or by cash, as noted on the attached sheets.

**PUBLIC VOUCHER
FOR
FEES AND MILEAGE OF WITNESSES**

Voucher No. _____

Schedule No. _____

Case No. _____

U.S. _____ **DEPARTMENT OF THE ARMY**
(Department, Bureau, or Establishment)

The UNITED STATES, Dr.

To payees whose claims are attached hereto, for travel made, services rendered, and /or per diem in lieu of subsistence as witnesses for the United States before the

General Court-Martial
(Name of court or board)

at Fort Atterbury, Indiana
(Location)

during the period from 12 February 2004 to 13 February , 20 04

in the case of US v. Manning

SUMMARY OF PAYMENTS

To one payee(s) listed on one sheet(s): Total amount of voucher, \$ 113.40

I certify that this voucher, consisting of one sheet(s), is correct and proper for payment in

the amount of \$ 113.40

(Authorized certifying officer)

13 February 2004
(Date)

TOM BRADY, CPT, JA, Trial Counsel
(Title)

ACCOUNTING CLASSIFICATION

210202 76-9505 P200000-2110 S09419 (202890.N00013) JAG 69

Paid by check(s) or by cash, as noted on the attached sheets.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, 54TH INFANTRY DIVISION (MECHANIZED)
OFFICE OF THE STAFF JUDGE ADVOCATE
FORT ATTERBURY, INDIANA 46124-9000

AMMP-JA

MEMORANDUM FOR Commander, 54th Infantry Division (Mechanized), Fort Atterbury,
Indiana 46124-9000

SUBJECT: Advice on Disposition of Court-Martial Charges - PV2 DEFAZIO, Laverne S

1. I have reviewed the attached charges and allied papers in the case of PV2 Laverne S. Defazio, 443-66-2314, Headquarters and Headquarters Company, 54th Infantry Division (M), Fort Atterbury, Indiana 46124-9000, and render this advice in accordance with the provisions of Article 34, UCMJ, and R.C.M. 406, MCM, United States (2002 Edition).

2. Legal Conclusions. After reviewing the attached charge and allied papers, I have reached the following legal conclusions:

- a. The charge and specifications allege offenses under the UCMJ.
- b. There is court-martial jurisdiction over the accused and the offenses.
- c. The allegations in the charges and specifications are warranted by the evidence contained in the attached charges and allied papers.

3. Staff Judge Advocate's Recommendation: I recommend that the charged offenses be tried by General Court-Martial and the case be referred to trial by Court-Martial Convening Order Number 14, Headquarters, 54th Infantry Division (Mechanized) dated 11 April 2004.

Encl
CMCO 14

WILLIAM BELICHICK
COL, JA
Staff Judge Advocate

DIRECTION OF THE CONVENING AUTHORITY

All recommendations of the Staff Judge Advocate are approved/disapproved.

ROBERT CRAFTS
Major General, USA
Commanding

UNITED STATES)
)
 v.)
)
)
 SPC MICHAEL SPRINT)
 467-00-5219,)
 U.S. ARMY)
 CO A, 1/12TH IN BN)
 54th IN DIV (M))
 FORT ATTERBURY, IN 46124-9000)

FINDINGS WORKSHEET

18 OCT 04

Specialist Michael Sprint, this court-martial finds you:

I. Full Acquittal or Full Conviction

Of (the) (all) Charge(s) and (its) (their) Specification(s): (Not Guilty) (Guilty)

II. Mixed Findings

Of Charge I and its Specifications: (Not Guilty) (Guilty)

or

Of Specification 1 of Charge I: (Not Guilty) (Guilty)

Of Specification 2 of Charge I: (Not Guilty) (Guilty)

Of Charge I: Guilty

Of Charge II and its Specifications: (Not Guilty) (Guilty)

or

Of Specification 1 of Charge II: (Not Guilty) (Guilty)

Of Specification 2 of Charge II: (Not Guilty) (Guilty)

Of Charge II: Guilty

Of Charge III and its Specification: (Not Guilty) (Guilty)

or

Of the Specification of Charge III: (Not Guilty) (Guilty)

Of Charge III: Guilty

(Signature of President)

UNITED STATES

v.

SPC MICHAEL SPRINT

467-00-5219,

U.S. ARMY

CO A, 1/12TH IN BN

54th IN DIV (M)

FORT ATTERBURY, IN 46124-9000

SENTENCE WORKSHEET

18 OCT 04

Specialist Michael Sprint, this court-martial sentences you:

1. To no punishment.
2. To be reprimanded.
3. To be reduced to the grade of _____.
4. To pay the United States a fine of \$_____ (and to serve (additional) confinement of _____ (days) (months) if the fine is not paid).
5. To forfeit \$_____ pay per month for _____ month(s). (Maximum two thirds pay per month for a maximum of 12 monhts)
6. To be restricted for _____ (days) (months) to the limits of:

7. To perform hard labor without confinement for _____ (days) (months).
8. To be confined for _____ (days) (month(s)) (year). (Maximum 12 months)
9. To be discharged from the service with a Bad Conduct Discharge.

(Signature of President)

UNITED STATES

v.

SSG DOOLITTLE P. SLACKER

554-00-2543

U.S. ARMY

HHC, 1/12TH IN BN

FORT ATTERBURY, IN 46124-9000

OFFER TO PLEAD GUILTY

17 OCT 04

1. I, Staff Sergeant Doolittle P. Slacker, promise to plead as follows in reference to the charges preferred against me by CPT Timothy Smith on 15 October 2004:

- a. To Charge I and its' Specifications, guilty.
- b. To Charge II and its' Specification, not guilty.
- c. To Specification 1 and 2 of Charge III, guilty. To Specification 3 of Charge III, guilty, except the words "in the stomach" substituting therefore the words "in the shoulder." Of the excepted words not guilty, of the substituted words, guilty. To Charge III, guilty.
- d. To Specification 1, 2, and 3 of Charge IV, guilty. To Specification 4 of Charge IV, not guilty. To Charge IV, guilty.

2. I further offer to do the following:

- a. Waive an investigation under Article 32, UCMJ.
- b. Request trial by military judge alone.
- c. Enter into a written stipulation with the trial counsel as to the facts and circumstances directly relating to or resulting from the offenses for which I am pleading guilty and further agree that this stipulation may be used to inform the members of the court or the military judge, if tried by military judge alone, of matters pertinent to appropriate findings and sentence.

3. In exchange for this offer to plead guilty the convening authority will take the action specified in the enclosure.

4. In return for my pleas of guilt, the convening authority agrees to withdraw Charge II and its' specification. The convening authority also agrees to have Specification 3 of Charge III changed to include the language "in the shoulder" in exchange for the words "in the stomach." The convening authority also agrees to withdraw Specification 4 of Charge IV.

5. The convening authority agrees to refer this case to a Special Court-Martial.

6. I understand my rights as described in the MCM, R.C.M. 705, as to the nature of my rights to counsel, due process, ability to challenge the jurisdiction of the court, speedy trial, complete sentencing proceedings, and effective exercise of post-trial and appellate rights. I have been counseled by my attorney as to these rights and to the effects of my offer to plead guilty.

7. I am entering into this agreement of my own free will.

DOOLITTLE P. SLACKER
SSG, USA
Accused

DUSTIN T. BREEZE
CPT, JA
Defense Counsel

The offer listed above is accepted/rejected.

ALLEN P. STRAWN
Major General, USA
Commanding

UNITED STATES)

v.)

ENCLOSURE TO THE OFFER TO
PLEAD GUILTY

SSG DOOLITTLE P. SLACKER)

554-00-2543)

U.S. ARMY)

HHC, 1/12TH IN BN)

FORT ATTERBURY, IN 46124-9000)

17 OCT 04

In exchange for my pleas of guilt the convening authority agrees to disapprove any sentence to confinement in excess of seven months. Any other lawful punishment may be approved.

DOOLITTLE P. SLACKER
SSG, USA
Accused

DUSTIN T. BREEZE
CPT, JA
Defense Counsel

The offer listed above is accepted/rejected.

ALLEN P. STRAWN
Major General, USA
Commanding

UNITED STATES

v.

SSG DOOLITTLE P. SLACKER

554-00-2543

U.S. ARMY

HHC, 1/12TH IN BN

FORT ATTERBURY, IN 46124-9000

STIPULATION OF EXPECTED TESTIMONY

17 OCT 04

It is hereby agreed between the trial counsel and defense counsel, with the express agreement of the accused, that the following facts are true and admissible at the court-martial of SSG Doolittle P. Slacker, regardless of any Rule for Court-Martial or Military Rule of Evidence which might otherwise make such evidence inadmissible:

1. During the afternoon of 13 October 2004, MAJ Alfus Moynihan encountered the accused and Mrs. Teresa Barone having lunch together in the food mall at the PX. MAJ Moynihan had given the accused a no contact order regarding Mrs. Barone on 2 October 2004. MAJ Moynihan approached the accused and told him to report immediately to battalion headquarters. The accused then rose from his seat and punched MAJ Moynihan in the face with a closed fist. The accused was embarrassed and upset about the encounter.
2. On the evening of 12 October 2004, the accused was at the on-post residence of Mrs. Teresa Barone. They had both been drinking Jack Daniels and at approximately 2100 hours Mrs. Barone told the accused that he was a worthless man. The accused became upset and hit Mrs. Barone on top of the head with a running style sports shoe. Mrs. Barone then began to yell loudly at the accused, at this point the accused picked up a plastic style baseball ball bat and hit her across the front portion of her left leg. Mrs. Barone began yelling louder and was berating the accused. SSG Slacker then punched Mrs. Barone in the right shoulder with his closed fist. The neighbors had called the MPs and they arrived shortly thereafter.
3. On the afternoon of 10 October 2004, the accused had been drinking heavily in his on-post quarters at Fort Atterbury, Indiana. At approximately 1545 hours, the accused was looking out the window of his quarters when he saw his neighbor's wife walk by (Mrs. Jessica Eaton-Hargroves). She gave him a dirty look and then the accused turned around and exposed his buttocks to Mrs. Eaton-Hargroves.
4. On 14 October 2004, HHC, 1/12th IN Bn., was conducting a forced 12 mile road-march on Fort Atterbury, Indiana. The accused was intentionally not keeping up or staying with the unit because he felt the chain of command was being unfair to him in regards to his various other disciplinary

problems. The accused's intent was to remain away from his unit and to upset his chain of command.

5. On 14 October 2004, after returning from a unit road-march, the accused noticed Mrs. Teresa Barone talking with her husband in the food court at the PX on Fort Atterbury. The accused then proceeded to use his cell phone to call the Provost Marshall's Office and tell them he had put an improvised explosive device at the PX and that he was going to blow the place up. The accused was jealous to see Mrs. Barone talking with her husband and wanted to break up the conversation. The accused figured that the MPs would come and clear out the PX.

6. At all times during the commission of the above offenses the accused was on active duty with the U.S. Army.

DOOLITTLE P. SLACKER
SSG, USA
Accused

DUSTIN T. BREEZE
CPT, JA
Defense Counsel

MATT E. LANA
CPT, JA
Trial Counsel

Data Required by the Privacy Act of 1974

AUTHORITY: Section 301, title 5 United States Code and section 3013, title 10, United States Code.

PURPOSE: To be used by the commander exercising general court-martial jurisdiction over you to determine approval or disapproval of your request for discharge in lieu of trial by court-martial.

ROUTINE USES: Request, with appropriate documentation, including the decision of the discharge authority, will be filed in the MPRJ as permanent material and disposed of in accordance with AR 600-8-104 and may be used by other appropriate Federal agencies and State and local governmental activities where use of the information is compatible with the purpose for which the information was collected.

Submission of a request for discharge is voluntary. Failure to provide all or a portion of the requested information may result in your request being disapproved.

27 Sep 04

SUBJECT: Request for Discharge in Lieu of Trial by Court-martial, SPC BUZZWORTHY, Lisa B., 999-01-8432, HHC, 3/12th IN Bn, Fort Atterbury, IN 46124-9000

TO Commander, 54th Infantry Division (Mechanized), Fort Atterbury, IN 46124-9000

1. I hereby voluntarily request discharge in lieu of trial by court-martial under AR 635-200, chapter 10. I understand that I may request discharge in lieu of trial by court-martial because of the following charges that have been preferred against me under the Uniform Code of Military Justice, each of which authorizes the imposition of a bad conduct or dishonorable discharge: wrongful distribution of a controlled substance to wit: cocaine on 21 Jun 04, a violation of Article 112a; AWOL from 19 Jun 04 to 26 Jul 04, a violation of Article 86.

2. I am making this request of my own free will and have not been subjected to any coercion whatsoever by any person. I have been advised of the implications that are attached to it. By submitting this request for discharge, I acknowledge that I understand the elements of the offenses charged and I am guilty of the charges against me or of a lesser included offense therein contained that also authorizes the imposition of a bad conduct or dishonorable discharge. Moreover, I hereby state that under no circumstances do I desire further rehabilitation, for I have no desire to perform further military service.

3. Prior to completing this form, I was afforded the opportunity to consult with appointed counsel for consultation. Although I have been advised to see consulting counsel, I persist willfully in my refusal to see him/her.

4. I understand that if my request for discharge is accepted, I may be discharged under conditions other than honorable. I have been advised and understand the possible effects of an Under Other Than Honorable Conditions Discharge and that as a result of the issuance of such a discharge I will

be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Department of Veterans Affairs, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life because of an Under Other Than Honorable Conditions discharge. I further understand that there is no automatic upgrading or review by any Government agency of a less than honorable discharge and that I must apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my discharge. I realize that the act of consideration by either board does not imply that my discharge will be upgraded.

5. I understand that once my request for discharge is submitted, it may be withdrawn only with consent of the commander exercising general court-martial convening authority or without that commander's consent in the event trial results in an acquittal or the sentence does not include a punitive discharge even though one could have been adjudged by the court. Further, I understand that if I am absent without leave, this request may be processed, and I may be discharged even though I am absent.

6. I have been advised that I may submit any statements I desire in my own behalf, which will accompany my request for discharge. Statements in my own behalf are not submitted with this request.

7. I hereby acknowledge receipt of a copy of this request for discharge and of all enclosures submitted herewith.

LISA B. BUZZWORTHY
SPC, USA
999-01-8432

REQUEST AND AUTHORITY FOR LEAVE This form is subject to the Privacy Act of 1974. For use of this form, see AR 600-8-10. The proponent agency is ODCSPER. (See instructions on reverse.)				1. CONTROL NUMBER	
PART I					
2. NAME (Last, First, Middle Initial) DAVIS, Carlos		3. SSN 443-99-6431		4. RANK PV1	
5. DATE 26 Nov 04		6. LEAVE ADDRESS (Street, City, State, ZIP Code and Phone No.) 442 County Road 6, Sticksville, TN 32144-6788 (100)993-8321		7. TYPE OF LEAVE <input type="checkbox"/> ORDINARY <input type="checkbox"/> EMERGENCY <input type="checkbox"/> PERMISSIVE TDY <input checked="" type="checkbox"/> OTHER INVOLUNTARY EXCESS	
8. ORGN, STATION, AND PHONE NO. HHC, 54th ID (M) Fort Atterbury, IN 46124-9000 (774)324-0022					
9. NUMBER DAYS LEAVE				10. DATES	
a. ACCRUED		b. REQUESTED		c. ADVANCED	
d. EXCESS		a. FROM 26 Nov 04		b. TO -	
11. SIGNATURE OF REQUESTOR		12. SUPERVISOR RECOMMENDATION/SIGNATURE <input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL		13. SIGNATURE AND TITLE OF APPROVING AUTHORITY CHRISTY PILAND, MG,	
14. DEPARTURE					
a. DATE		b. TIME		c. NAME/TITLE/SIGNATURE OF DEPARTURE AUTHORITY	
15. EXTENSION					
a. NUMBER DAYS		b. DATE APPROVED		c. NAME/TITLE/SIGNATURE OF APPROVAL AUTHORITY	
16. RETURN					
a. DATE		b. TIME		c. NAME/TITLE/SIGNATURE OF RETURN AUTHORITY	
17. REMARKS <div style="text-align: center;">SPACE AVAILABLE TRAVEL RESTRICTION IMPOSED.</div> <div style="text-align: right; margin-top: 20px;">Chargeable leave is from _____ to _____</div>					
PART II - EMERGENCY LEAVE TRANSPORTATION AND TRAVEL					
18. You are authorized to proceed on official travel in connection with emergency leave and upon completion of your leave and travel will return to home station (or location) designated by military orders. You are directed to report to the Aerial Port of Embarkation (APOE) for onward movement to the authorized international airport designated in your travel documents. All additional travel is chargeable to leave. Do not depart the installation without reservations or tickets for authorized space required transportation. File a no-pay travel voucher with a copy of your travel documents or boarding pass within 5 working days after your return. Submit request for leave extension to your commander. The American Red Cross can assist you in notifying your commander of your request for extension of leave.					
19. INSTRUCTIONS FOR SCHEDULING RETURN TRANSPORTATION: For return military travel reservations in CONUS call the MAC Passenger Reservation Center (PRC): Should you require other assistance call PAP:					
20. DEPARTED UNIT		21. ARRIVED APOD		22. ARRIVED APOE (return only)	
23. ARRIVED HOME UNIT					
24. PART III - DEPENDENT TRAVEL AUTHORIZATION					
25. <input type="checkbox"/> (Space available or required cash reimbursable) <input type="checkbox"/> ONE WAY <input type="checkbox"/> ROUND TRIP <input type="checkbox"/> (Space required) TRANSPORTATION AUTHORIZED FOR DEPENDENTS LISTED IN BLOCK NO. 25					
DEPENDENT INFORMATION					
a. DEPENDENTS (Last name, First, MI)		b. RELATIONSHIP		c. DATES OF BIRTH (Children)	
d. PASSPORT NUMBER					
PART IV - AUTHENTICATION FOR TRAVEL AUTHORIZATION					
26. DESIGNATION AND LOCATION OF HEADQUARTERS				27. ACCOUNTING CITATION	
28. DATE ISSUED		29. TRAVEL ORDER NUMBER		30. ORDER AUTHORIZING OFFICIAL (Title and signature) OR AUTHENTICATION	

DEPARTMENT OF THE ARMY
Office of the Staff Judge Advocate
54th Infantry Division (Mechanized)
Fort Atterbury, Indiana 46124-900

FAIN-JA-CL

MEMORANDUM FOR Commander, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana
46124-9000

SUBJECT: Recommendation of the Staff Judge Advocate – PFC Benjamin Sepveda

1. The record of trial by Special Court-Martial in the case of PFC Benjamin Sepveda, 422-79-5578, HHC, 1/12th IN Bn, Fort Atterbury, IN 46124-9000, has been referred to me for a recommendation prior to your action as required by R.C.M. 1106, Manual for Courts-Martial and Article 60(d), UCMJ.

2. PERSONAL DATA:

a. HISTORY. DOB: 4 September 1980. Marital Status: Single. Dependents: None. Civilian Education: High School Graduate. Military Education: None.

b. MILITARY SERVICE. Prior Service: None. BASD: 27 Aug 00. Current Term: 4 years. Total Creditable Service: Approximately 1 year 6 months at time of trial, adjusted to reflect AWOL time.

c. MILITARY BACKGROUND. Awards and Decorations: NDSM, ASR, GWTSM, M16 Rifle Qualification Badge. GT SCORE: 113.

d. PRIOR DISCIPLINARY ACTIONS/CONVICTIONS: Military: None. Civilian: None.

3. CHARGE:

a. Charge, Article 86, Specification: On or about 4 Jan 02, without authority, absented himself from his unit, to wit: HHC, 1/12th IN Bn, located at Fort Atterbury, IN, and did remain so absent until or about 17 Oct 04. Plea: Guilty. Finding: Guilty. Correct: Yes

4. SENTENCE.

a. Date Sentence Adjudged: 28 November 2004.

FAIN-JA-CL

SUBJECT: Recommendation of the Staff Judge Advocate – PFC Benjamin Sepveda

b. Maximum Possible Sentence: Reduction to Private (E1), forfeiture of two-thirds pay per month for 12 months, confinement for 12 months, and a bad-conduct discharge.

c. Sentence Adjudged by Military Judge: Reduction to Private (E1); forfeiture of \$795.00 pay per month for six months; to be confined for six months; and a bad-conduct discharge.

d. Clemency recommended by the military judge: None.

e. Pretrial Agreement: In exchange for the accused's pleas of guilt you agreed to refer this case to a Special Court-Martial and to disapprove any sentence to confinement in excess of five months.

5. CREDIT.

a. Days in pretrial confinement: None.

b. Administrative credit: None.

c. Pretrial restraint not requiring sentence credit: None.

6. RECOMMENDATION: I recommend that you approve only so much of the sentence as that which provides for confinement for five months, reduction to Private (E1), forfeiture of \$795.00 pay per month for six months, and a bad-conduct discharge, and except for the bad-conduct discharge, order the execution of all approved punishments.

Encl
Record of Trial

MICHAEL S. JONES
COL, JA
Staff Judge Advocate

ACTION

DEPARTMENT OF THE ARMY
Headquarters, 54th Infantry Division (Mechanized)
Fort Atterbury, Indiana 46124-9000

17 December 2004

In the case of Private First Class Benjamin Sepveda, 422-79-5578, U.S. Army, Headquarters and Headquarters Company, 1st Battalion, 12th Infantry, Fort Atterbury, Indiana, only so much of the sentence as provides for confinement for five months, reduction to Private (E1), forfeiture of \$795.00 pay per month for six months, and a bad-conduct discharge is approved and, except for that part of the sentence extending to a bad-conduct discharge, will be executed.

HERMAN SCHWARZENDORFER
Major General, USA
Commanding

DEPARTMENT OF THE ARMY
Headquarters, 54th Infantry Division (Mechanized)
Fort Atterbury, Indiana 46124-9000

SPECIAL COURT-MARTIAL ORDER
NUMBER 46

17 December 2004

PFC Benjamin Sepveda, 422-79-5578, HHC, 1/12th Infantry Battalion, was arraigned at Fort Atterbury, Indiana, on the following offenses at a special court-martial convened by the Commander, 54th Infantry Division (Mechanized).

Charge. Article 86. Plea: Guilty. Finding: Guilty.

Specification: Absence from unit from 4 Jan 02 until 17 Oct 04. Plea: Guilty. Finding: Guilty.

SENTENCE

Sentence adjudged on 28 November 2004. Bad-Conduct Discharge, forfeiture of \$795.00 pay per month for six months, confinement for six months, and reduction to Private (E1).

ACTION

Only so much of the sentence as provides for confinement for five months, reduction to Private (E1), forfeiture of \$795.00 pay per month for six months, and a bad-conduct discharge is approved, and except for that part of the sentence extending to a bad-conduct discharge, will be executed

BY COMMAND OF MAJOR GENERAL SCHWARZENDORFER:

DISTRIBUTION:

PV1 Sepveda (1)
Military Judge (1)
Trial Counsel (1)
Defense Counsel (1)
Cdr, Co A, 1/12th IN Bn (1)
Cdr, 1/12th IN Bn., 1st Bde (1)
Cdr, 54th IN Div (Mech) ATTN: SJA (2)
Cdr, 54th IN Div (Mech) (1)
Cdr, ICF, Fort Atterbury, IN (1)
MPD, ATTN: Records Section, Fort Atterbury, IN (1)
MPD, ATTN: FAO, Fort Atterbury, IN (1)
Cdr, USAEREC, ATTN: PCRE-FS, Fort Ben Harrison, IN 46249-5301 (1)
Clerk of Court (JALS-CC) Nassif Building, Falls Church, VA 22041-5013 (1)
Reference Set (1)
Record Set (1)

TANK CABRERA
SFC, USA
Criminal Law, NCOIC

DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE
54TH INFANTRY DIVISION (MECHANIZED)
FORT ATTERBURY, INDIANA 46124-9000

TRRZ-BD-CO

2 November 2004

MEMORANDUM FOR SGT William Boozer, Headquarters and Headquarters Company, 1st
Brigade, Fort Atterbury, Indiana 46124-9000

SUBJECT: Administrative Reprimand

1. On 31 October 2004, you were observed by the military police swerving across the center-line of Albanese Road, on Fort Atterbury, Indiana. A traffic stop was initiated and a strong odor of alcohol was detected on your breath. A field sobriety test was administered which you failed. You were taken to the Provost Marshall's Office and administered a breathalyzer test which yielded a result of .135 grams of alcohol per 210 liters of breath.
2. You are hereby reprimanded for your misconduct and for endangering the safety of yourself and other members of this community. By operating a vehicle while under the influence of alcohol, you failed to maintain the standards expected of a noncommissioned officer in the United States Army. Your conduct raises serious doubt about your potential for further service and your moral integrity.
3. This reprimand is imposed under the provisions of AR 600-37, and is not punishment under Article 15, UCMJ. I currently intend to request that the Commander, 54th Infantry Division (Mechanized) file this reprimand in your Official Military Personnel File, unless you submit matters that show such filing is unwarranted. You may submit matters in rebuttal to this allegation. You may seek legal assistance from the Fort Atterbury Legal Assistance Office or from civilian counsel at no expense to the Government. Military Police Report # 445-hh-6587, is included as an enclosure to this reprimand.
4. You will acknowledge this reprimand by signing and dating the prepared acknowledgment. Any matters you wish to submit for my consideration must be submitted, through your chain of command within 10 calendar days of the date you received this memorandum. If I do not receive a response from you within the 10-day period, I will assume that you have no matters to submit and will forward this reprimand for consideration.

Encl
as

MICHAEL S. JONES
COL, IN
Commanding

TRRZ-BD-CO

MEMORANDUM FOR Commander, Headquarters and Headquarters Company, 1st Brigade,
Fort Atterbury, IN 46124-9000

SUBJECT: Administrative Reprimand

1. _____I have read and understand the unfavorable information presented against me and submit the following statement or documents in my behalf.
2. _____I have read and understand the unfavorable information presented against me and elect not to make a statement.

WILLIAM BOOZER
SGT, USA
062-45-8123

DEPARTMENT OF THE ARMY
HEADQUARTERS, 54TH INFANTRY DIVISION (MECHANIZED)
FORT ATTERBURY, INDIANA 46124-9000

TRRZ-CG

MEMORANDUM THRU Commander, Headquarters, 1st Brigade, 54th Infantry Division
(Mechanized), Fort Atterbury, Indiana 46124-9000

FOR SGT William Boozer, Headquarters and Headquarters Company, 1st Brigade, Fort Atterbury,
Indiana 46124-9000

SUBJECT: Administrative Reprimand

1. After considering all matters available, I direct that the enclosed Administrative Reprimand be
filed in your:

_____ Returned to the Brigade Commander for action.

_____ Official Military Personnel File.

_____ Local Unit Files.

2. A copy of the Administrative Reprimand with endorsements will be filed in your unit files in
accordance with applicable military regulations.

HERMAN SCHWARZENDORFER
Major General, USA
Commanding

DEPARTMENT OF THE ARMY
Company A, 70th Engineer Battalion
Fort Chamberlain, OH 42119

FCOPP-CO

MEMORANDUM FOR PV1 Darren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH 42119.

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions - PV1 Darren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH 42119

1. Under the provisions of AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions, I am initiating action to separate you from the U.S. Army Reserve for missing formations, disrespect, failure to obey orders, and being drunk on duty. The reasons for my proposed actions are that on 15 Jun 04, you were disrespectful to SFC Michael Smith. SFC Smith stated you rolled your eyes after he told you to do police call. On 16 Jun 04, you were disrespectful to SSG Karen Walden. SSG Walden states you told her to "buzz off" after she instructed you to button your BDU top. On 24 Jul 04, you failed to obey a lawful order. 1SG Buzz McKenzie states you failed to comply with an order he gave you to pull all the weeds from the rock bed in front of the unit orderly room. On 24 Jul 04, you failed to report for the 0630 PT/accountability formation adjacent to Bldg. 155. On 3 Aug 04, you left your place of duty without proper authority, to wit: the unit motor-pool at 1400. On 4 Aug 04, you failed to obey a lawful order. SGT Stacey Sanchez gave you an order to PMCS your assigned vehicle before leaving for lunch. You failed to do so. On 14 Sep 04, you failed to report for the 0630 PT/accountability formation adjacent to Bldg. 155. On 15 Sep 04, you disobeyed a lawful order from SSG Karen Walden to "stand at parade rest" while she was talking with you. On 4 Oct 04, you were drunk on duty at the 0630 PT/accountability formation. At that formation SGT Stacey Sanchez detected the odor of alcohol on your breath. She informed the First Sergeant and me. I determined after speaking with you that there was sufficient evidence to get you tested. You were taken to the MP station and given a breathalyzer test resulting in a BAC of .072%. On 5 Oct 04, you failed to be at your appointed place of duty. You were supposed report to the battalion SDNCO for extra duty and you never showed. You received non-judicial punishment on two separate occasions for the misconduct noted above. All 10 DA Form 4856s and both DA Form 2627s are enclosed.

2. I am recommending that you receive a General (under honorable conditions) characterization of service. My recommendation and your reply will be submitted through the intermediate commanders to the separation authority, Commander, Human Resources Command – St. Louis, who will make the final decision in your case.

3. The intermediate commanders and the separation authority are not bound by my recommendation as to characterization of service. The separation authority may direct that your service be characterized as Honorable, General (under honorable conditions), or Under Other Than Honorable Conditions.

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions - PV1 Darren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH 42119

4. If my recommendation is approved, the proposed separation could result in discharge from the U.S. Army Reserve, transfer or reassignment from your U.S. Army Reserve unit to the Individual Ready Reserve, or release from custody and control of the Army.

5. You have 30 calendar days as of the date on this notification to exercise the following rights:

a. You have the right to consult with an appointed counsel for consultation; or military counsel of your choice, if he or she is reasonably available, or civilian counsel at your own expense.

1. If you desire an appointed counsel for consultation, notify this command before completing the response by endorsement and the name and the phone number of the appointed counsel will be provided.

2. If you desire a military counsel of your choice, provide this command with the officer's name and rank before completing the response by memorandum and if the officer is reasonably available, he or she will be appointed counsel for consultation.

3. If you retain civilian counsel at no expense to the government, recommend the counsel be retained before completing the response by endorsement.

b. You have the right to obtain copies of documents that will be sent to the separation authority supporting the basis of the proposed separation.

c. You have the right to request a hearing before an administrative separation board if you have six or more years of total active and/or reserve service on the date of this notification.

d. If you request a hearing before an administrative board, you have the right to representation at the administrative board by a military counsel.

e. You have the right to representation at the administrative board by civilian counsel at your own expense and at no expense to the government.

f. You have the right to present written statements on your behalf instead of the administrative board proceedings.

g. You have the right to waive the rights listed above in paragraphs a through f in writing, and you may withdraw any such waiver at any time before the date the separation authority orders, directs, or approves your separation.

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions - PV1 Darren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH 42119

6. You must complete the attached endorsement acknowledging receipt of this memorandum and indicating the election of your rights. A copy of this memorandum with the completed endorsement attached must be delivered to the address shown on the endorsement within 30 days from the date of your receipt of this memorandum of notification. Any statement or documents you desire to submit in your behalf must also reach me within 30 calendar days after you receive this memorandum unless you request and receive an extension for good cause shown. Unless an extension is granted, failure to deliver the completed endorsement within 30 days of the date of your receipt of this memorandum will constitute a waiver of your rights in paragraphs 5a, b, c, d, e, and f above.

Encl

1. DA Form 4856 x 10
2. DA Form 2627 x 2

DANIEL JENKINS
CPT, EN
Commanding

MEMORANDUM FOR Commander, Company A, 70th Engineer Battalion, 19th Infantry Division,
Fort Chamberlain, OH 42119

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter 12-1a, Minor
Disciplinary Infractions - PV1 Darren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st
Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH 42119

1. I hereby acknowledge receipt of the Notification of Separation Proceedings under AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions, dated 15 Nov 04. I understand that I may expect to encounter substantial prejudice in civilian life if my service is characterized as general (under honorable conditions).

2. Before completing this response, I understand that I have the right to consult with an appointed counsel for consultation; or military counsel of my own choice, if he or she is reasonably available, or civilian counsel at my own expense. (The soldier will exercise this right by initialing one of the following paragraphs:)

a. () I have exercised my right and I have consulted with counsel in preparation of this response to the notification memorandum. I have been advised by my consulting counsel of the basis for the contemplated action to separate me for missing formations, disrespect, failure to obey orders, and being drunk on duty, under AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions, and its effect; of the rights available to me; and the effect of any action taken by me in waiving my rights. The counsel has confirmed this by entering and signing the statement at the end of this memorandum; or

b. () I hereby waive my right to consult with an appointed counsel for consultation; or military counsel of my own choice, or civilian counsel at my own expense.

3. I understand I have the right to obtain copies of documents that will be sent to the separation authority supporting the basis of my proposed separation. (The soldier will exercise this right by initialing one of the following paragraphs:)

a. () I hereby waive my right to obtain copies of documents.

b. () I hereby request copies of the documents.

4. I understand that if I have six or more years of total active and/or reserve service, on the date of notification, I have the right to a hearing before an administrative separation board, unless I waive that right. (The soldier will exercise this right by initialing one of the following paragraphs:)

a. () I have six or more years of total active and/or reserve service on the date of this notification and I hereby exercise my right to a hearing before an administrative separation board. I understand that after having requested appearance before the board, my willful failure to appear before the board will constitute a waiver of my rights to personal appearance before the

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions - PV1 Darren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH 42119

board, unless I am in civil confinement. (When requesting a board hearing the soldier must also initial on of the following:)

1. () I request a counsel for representation at the hearing be designated.

2. () I waive my right to a counsel for representation at the board hearing.

b. () I have six or more years of total active and/or reserve service on the date of this notification and I hereby waive my right to a hearing before an administrative separation board.

5. I have the right to representation at the administrative board by civilian counsel at my own expense and at no expense to the government. (The soldier will initial the following if civilian counsel is retained:)

() I have retained, or will retain, civilian counsel.

6. I understand I have the right to present written statements in my behalf instead of the administrative board proceedings. (The soldier will exercise this right by initialing one of the following paragraphs:)

a. () I hereby waive by right to submit written statements.

b. () Statements in my own behalf are submitted herewith and attached as enclosures.

7. I understand that I have the right, up until the date the separation authority orders, directs, or approves my separation, to withdraw any waiver of my rights that I may have submitted. If I had a right to a board hearing and waived that right, I can withdraw the waiver and request a hearing before an administrative board.

8. I understand that if I have been ordered to undergo a medical or mental status evaluation and refuse to comply with the order, or willfully fail to undergo such examination or evaluation, separation action will be taken without an examination or evaluation.

9. I understand that there is no automatic upgrading or review by any government agency of any characterization of service that is less than honorable. After discharge, I may apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my characterization of service. I realize that consideration by either board does not imply that my characterization of service will be upgraded.

10. I have retained a copy of the Notification Memorandum and a copy of this completed election of rights memorandum and I submit the following statement of understanding:

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter 12-1a, Minor Disciplinary Infractions - PV1 Darren Trugger, 555-22-0112, Co A, 70th Engineer Battalion, 1st Engineer Brigade, 19th Infantry Division, Fort Chamberlain, OH 42119

UNDERSTANDING: I have read and understand each of the statements above and understand that they are intended to constitute all promises whatsoever concerning my waiver options. Any other promise, representation, or commitment made to me in connection with my separation is written below in my own handwriting or is hereby waived.
NONE.

DATE

DARREN TRUGGER
PV1, 555-22-0112
Respondent

Having been advised by me of the basis for his contemplated separation and its effects, the rights available to him, and the effect of a waiver of his rights, PV1 Darren Trugger personally made the choices indicated in the foregoing memorandum.

DATE

CLAY JEFFERSON
CPT, JA
Defense Counsel

DEPARTMENT OF THE ARMY
Company E, 2/12th Infantry Battalion
Fort Atterbury, Indiana 46124-9000

KSL-EC-CO

MEMORANDUM FOR SGT Johnny T. Southside, Co. E, 2/12th IN Bn, Fort Atterbury, IN
46124-9000

SUBJECT: Separation Under AR 635-200, Chapter 14-12c, Commission of a Serious Offense –
SGT Johnny T. Southside

1. Under the provisions of AR 635-200, Chapter 14-12c, Commission of a Serious Offense, I am initiating action to separate you for use of illegal drugs. The reason for my proposed action is that you tested positive for cocaine at a random unit urinalysis on 14 Nov 04.
2. I am recommending that you receive a General (under honorable conditions) discharge. The intermediate commander/s and the separation authority are not bound by my recommendation as to characterization of service. The separation authority in your case is the Commander, 1st Brigade, 54th Infantry Division (Mechanized). The separation authority may direct that your service be characterized as General (under honorable conditions). The separation authority may recommend to the Commander, 54th Infantry Division, that your service be characterized as Honorable, or Under Other than Honorable conditions. However, neither the Commander, 1st Brigade, or the Commander, 54th Infantry Division (Mechanized) may direct the issuance of a type of discharge or characterization of service less favorable than that recommended by the board should you request a hearing before and administrative board.
3. If my recommendation is approved, the proposed separation could result in discharge, release from active duty to a Reserve component, or release from custody and control of the Army.
4. You have the right to consult with consulting counsel and or civilian counsel at no expense to the Government within a reasonable time (not less than 3 duty days).
5. You may obtain copies of documents that will be sent to the separation authority supporting the proposed separation. (Classified documents may be summarized).
6. You may request a hearing before an administrative separation board, or you may present written statements instead of requesting board proceedings if you have over 6 years of active and reserve service as of the date of notification of separation.
7. You may request appointment of military counsel for representation. You may also retain civilian counsel at no expense to the Government.

KSLL-EC-CO

SUBJECT: Separation Under AR 635-200, Chapter 14-12c, Commission of a Serious Offense –
SGT Johnny T. Southside

8. You may waive the rights listed above in paragraphs 4, 5, 6, and 7 in writing, and you may withdraw any such waiver any time prior to the date the separation authority orders, directs, or approves your separation.
9. You may submit a conditional waiver of your right to have your case heard by an administrative separation board.
10. You have undergone a complete medical examination in accordance with AR 40-501 and AR 635-200.
11. You have undergone a mental status evaluation in accordance with AR 40-501 and AR 635-200.
12. Execute the attached acknowledgment and return it within 7 duty days from the date of your receipt of this memorandum. Any statement you desire to submit in your behalf must reach me within 7 days after you receive this letter unless you request and receive an extension for good cause shown. Unless an extension is granted, failure to respond within 7 duty days will constitute a waiver of the rights in paragraphs 4, 5, 6, and 7.

7 Encls

1. Notification
2. Acknowledgement
3. Basis for Chapter
4. Mental Status Evaluation
5. Medical Evaluation
6. ERB
7. Flag

PETER C. ORR
CPT, IN
Commanding

I acknowledge receipt of notification for separation under the provisions of AR 635-200 Chapter, 14-12c, Commission of a Serious Offense.

JOHNNY T. SOUTHSIDE
SGT, USA
344-22-9854

DATA REQUIRED BY PRIVACY ACT OF 1974
(5 USC 552a)

AUTHORITY: 5 USC 301 and 10 USC 3013

PURPOSE: To be used by the commander exercising separation authority over the soldier to determine approval or disapproval of his/her request for conditional waiver and, in case of disapproval to indicate the soldier's options concerning rights available to him/her in contemplated administrative separation cases.

ROUTINE USES: Information provided in the statement is used by processing activities and the approval authority to determine what rights the desires to exercise and the offering of such rights as indicated. Upon completion of processing actions, the statement is filed in local unit files. As long as filed in local unit files, the personal information may be used by other appropriate Federal agencies and state and local government authorities where the use of the information is compatible with the purpose for which the information is collected.

Disclosure is voluntary. If the information is not provided, the Army will complete processing using information available.

Submission of a statement for consideration is voluntary. If a statement is not submitted, the Army will determine separation or retention based on the available information.

DEPARTMENT OF THE ARMY
Company E, 2/12th Infantry Battalion
Fort Atterbury, Indiana 46124-9000

KSL-EC-CO

MEMORANDUM FOR Commander, Co. E, 2/12th IN Bn, Fort Atterbury, IN 46124-9000

SUBJECT: Separation Under AR 635-200, Chapter 14-12c, Commission of a Serious Offense –
SGT Johnny T. Southside

1. I have been advised by my consulting counsel of the basis for the contemplated action to separate me for the use of illegal drugs, under AR 635-200, Chapter 14-12c, Commission of a Serious Offense, and its effects; of the rights available to me; and of the effect of any action taken by me in waiving my rights. I understand that if I have 6 years of total active and reserve military service at the time of separation under AR 635-200, (or I have been notified that I am subject to a characterization of service under other than honorable conditions), I am entitled to have my case heard before an administrative separation board. (I understand that if I have less than 6 years of total active and reserve service at the time of separation, I am not entitled to have my case heard before an administrative separation board unless I am being considered for an under other than honorable conditions discharge).
2. I **(request) (waive)** consideration of my case by an administrative separation board.
3. I have been advised of my right to submit a conditional waiver of my right to have my case considered by an administrative separation board.
4. I **(request) (waive)** personal appearance before an administrative separation board.
5. Statements in my own behalf **(are) (are not)** submitted herewith.
6. I **(request) (waive)** consulting counsel and representation by military counsel (and) (or) civilian counsel at no expense to the Government.
7. I understand that my willful failure to appear before the administrative separation board by absenting myself without leave will constitute a waiver of my rights to personal appearance before the board.
8. I understand that I may expect to encounter substantial prejudice in civilian life if a General discharge under honorable conditions is issued to me. I further understand that as the result of issuance of a discharge under other than honorable conditions I may be ineligible for many or all benefits as a veteran under both Federal and State laws and that I may expect to encounter substantial prejudice in civilian life. I understand that if I receive a discharge/characterization of service that is less than honorable, I may make application to the Army Discharge Review Board

KSL-EC-CO

SUBJECT: Separation Under AR 635-200, Chapter 14-12c, Commission of a Serious Offense –
SGT Johnny T. Southside

or the Army Board for Correction of Military Records for upgrading; however, I realize that an act of consideration by either board does not imply that my discharge will be upgraded.

9. I understand that I may, up until the date the separation authority orders, directs, or approves my separation, withdraw any waiver and request that an administration separation board hear my case.

10. I have retained copy of this statement.

JOHNNY T. SOUTHSIDE
SGT, USA
344-22-9854

Having been advised by me of the basis for his contemplated separation and its effects, the rights available to him, and the right to waive his rights, SGT Southside personally made the choices indicated in the foregoing statement.

AMANDA CARR
CPT, JA
Counsel for Respondent

DATA REQUIRED BY PRIVACY ACT OF 1974
(5 USC 552a)

AUTHORITY: 5 USC 301 and 10 USC 3013

PURPOSE: To be used by the commander exercising separation authority over you to determine approval or disapproval of the separation action.

ROUTINE USES: Information provided in the statement is used by processing activities and the approval authority to determine what rights the soldier desires to exercise and the offering of such rights as indicated. Upon completion of processing actions, the statement is filed in local unit files. So long as filed in local unit files, the personal information may be used by other appropriate Federal agencies and State and local government authorities where the use of the information compatible with the purpose for which the information is collected. Disclosure is voluntary. If the information is not provided, the Army will complete processing using information available.

DEPARTMENT OF THE ARMY
Company E, 2/12th Infantry Battalion
Fort Atterbury, Indiana 46124-9000

KSL-EC-CO

MEMORANDUM THRU Commander, 2/12th Infantry Battalion, 1st Brigade, Fort Atterbury,
Indiana 46124-9000

FOR Commander, 1st Brigade, 54th Infantry Division (Mechanized), Fort Atterbury, Indiana
46124-9000

SUBJECT: Separation Under AR 635-200, Chapter 14-12c, Commission of a Serious Offense –
SGT Johnny T. Southside

1. Under the provisions of AR 635-200, Chapter 14-12c, Commission of a Serious Offense, I
recommend that the following named soldier be separated from the United States Army prior to
the expiration of his term of service.

- a. Name/Grade/SSN: SOUTHSIDE, Johnny T./E5/344-22-9854.
- b. Date of Birth: 15 May 73.
- c. Date of enlistment: 15 Oct 01.
- d. Length of term for which enlisted: 4 years.
- e. Prior Service (if any): None.
- f. Specific, factual reason for action recommended: tested positive for cocaine at a
random unit urinalysis on 14 Nov 04.
- g. Aptitude area scores and DMOS: 11B30; GT: 95; CA: 94; CO: 98; EL: 101; FA:
104; MM: 92; FO: 94; SC: 91; TE: 95; GM: 92.
- h. Results of CTT: Passed all events on 19 Jun 04.
- i. Record of counseling, if applicable: No negative or positive counseling.
- j. Description of rehabilitation attempts, if applicable: None.
- k. Record of Trials by Court-Martial: None.

KSL-EC-CO

SUBJECT: Separation Under AR 635-200, Chapter 14-12c, Commission of a Serious Offense – SGT Johnny T. Southside

l. Record of other disciplinary action, including non-judicial punishment: Field Grade Article 15, dated 15 Dec 04, tested positive for cocaine.

m. Report of mental status evaluation or psychiatric report is attached.

n. Report of medical examination is attached.

o. It is not feasible or appropriate to accomplish other disposition because SGT Southside has lost all ability and potential to lead soldiers given the fact that he tested positive for an illegal drug. SGT Southside's potential for further service has been significantly degraded and he no longer shows a desire to uphold the Army values.

p. Promotions and dates thereof: PV1: 130697; PV2: 011097; PFC: 060798; SPC: 011199; SGT: 010502; SSG: 010603.

q. Reductions and dates thereof: From SSG/E6 to SGT/E5 via Field Grade Article 15 dated 15 Dec 04.

r. Whether there is a record of time lost; if so, whether due to absence without leave, confinement, or other reasons: None.

s. Favorable information for the soldier: None.

t. Derogatory information other than Article 15 action and Court-Martial proceedings: None.

u. Citations and awards: ASR; OSR; GCM x 2; AAM x 2; ARCOM x 2; NDSM; GWTEM.

v. Where derogatory information has been revealed, make note of any evidence of rehabilitation: None.

w. Medical or other data pertinent to the characterization of this separation: None.

x. Other information considered pertinent: None.

2. SGT Johnny T. Southside clearly has no potential for useful service under conditions of full mobilization.

KSLL-EC-CO

SUBJECT: Separation Under AR 635-200, Chapter 14-12c, Commission of a Serious Offense –
SGT Johnny T. Southside

3. Memorandum of notification and acknowledgment are attached as enclosures.

7 Encls
nc

PETER C. ORR
CPT, IN
Commanding

Type of Separation	Medical Exam Required	Mental Exam Required	Para. 2-4 Counseling Required	Characterizations of Service Possible	Separation Authority
Chapter 6-7 Other Physical or Mental Conditions	Yes	Yes	Yes	Honorable	Area Commander(*)(**)
Chapter 7-1 Minority Enlistments	No	No	No	Uncharacterized	Area Commander(*)(**)
Chapter 7-2 Erroneous Enlistment, Reenlistment, Extension	No	No	No	Honorable or Uncharacterized	Area Commander(*)(**)
Chapter 7-3 Defective Enlistments or Reenlistments	No	No	No	Honorable or Uncharacterized	Area Commander(*)(**)
Chapter 7-4 Fraudulent Enlistments or Reenlistments	No	No	No	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chapter 8 Entry Level Performance	No	No	Yes	Uncharacterized	Area Commander(*)(**)
Chapter 9 Unsatisfactory Performance	No	No	Yes	Honorable or General (UHC)	Area Commander(*)(**)
Chapter 10 Homosexual Conduct	Yes	Yes	No	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chapter 11 Substance Abuse Rehabilitation Failure	No	No	No	Honorable or General (UHC)	Area Commander(*)(**)
Chapter 12-1a Minor Disciplinary Infractions	No	No	Yes	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chapter 12-1b Pattern of Misconduct	No	No	Yes	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chapter 12-1c Commission of a Serious Offense	No	No	No	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chapter 12-1d Abuse of Illegal Drugs	No	No	No	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chap 12-2 Conviction by a Civil Court	No	No	No	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chapter 13 Unsatisfactory Performance in Ready Reserve	No	No	No	Honorable or General (UHC) or OTH	Area Commander(*)(**)
Chapter 14 Secretarial Plenary Authority	No	No	No	Honorable or General (UHC)	Area Commander(*)(**)
Chapter 15-1a Non-Citizens	No	No	No	Honorable or General (UHC)	Area Commander(*)(**)
Chapter 16 Failure to Meet Body Composition Standards	Yes	No	Yes	Honorable	Area Commander(*)(**)

* The separation authority for all Army National Guard members is the State Adjutant General. ** Individual Mobilization Augmentees, Individual Ready Reserves, Standby Reserves & Retired Reserve personnel can only be separated by the Cdr, HRC - St. Louis; Area Commanders can delegate separation authority to general officers with SJA advisors.

Type of Separation	Medical Exam Required	Mental Exam Required	Para. 1-16 Counseling Required	Transfer to the IRR Possible	Characterizations of Service Possible	Separation Authority
Chapter 5-8 Separation Due to Parenthood	No	No	Yes	No	Honorable General (UHC)**	SPCMCA
Chapter 5-13 Personality Disorder	No	Yes	Yes	Yes	Honorable General (UHC)	SPCMCA
Chapter 5-17 Other Physical/Mental Conditions	Yes	Yes	Yes	Yes	Honorable General (UHC)	SPCMCA
Chapter 7-15 Erroneous Enlistments, Re-Enlistments, Extensions	No	No	No	Yes	Honorable	SPCMCA
Chapter 7-16 Defective or Unfulfilled Enlistment/Re-enlistment Agreements	No	No	No	Yes	Honorable	SPCMCA
Chapter 7-17 Incident of Fraudulent Entry	No	No	No	No	Honorable UOTH*	SPCMCA
Chapter 9 Alcohol or Other Drug Abuse Rehab Failure	Yes	No	No	No	Honorable General (UHC)	SCMCA
Chapter 11 Entry Level Performance and Conduct	Yes	No	Yes	Yes	Uncharacterized	SCMCA
Chapter 13 Unsatisfactory Performance	Yes	Yes	Yes	No	Honorable General (UHC)	SCMCA or SPCMCA
Chapter 14-12a Minor Disciplinary Infractions	Yes	Yes	Yes	No	Honorable* General (UHC) UOTH*	SPCMCA
Chapter 14-12b Patter of Misconduct	Yes	Yes	Yes	No	Honorable* General (UHC) UOTH*	SPCMCA
Chapter 14-12c Commission of a Serious Offense	Yes	Yes	Yes	No	Honorable* General (UHC) UOTH*	SPCMCA
Chapter 15 Homosexual Misconduct	Yes	Yes	No	Yes	Honorable General (UHC) UOTH*	SPCMCA
Chapter 18 Failure to Meet Body Fat Standards	Yes	No	Yes	Yes	Honorable	SCMCA

* Can only be approved by the GCMCA, additionally, the SPCMCA does not have the authority to order separation boards where an Under Other Than Honorable Conditions discharge is being considered.

** Conditions warranting a General (UHC) discharge must be explained in the notification memorandum.

Appendix – 32 Active Army Separations Matrix

Appendix B

Answer Key for Legal Assistance Exercises

Conduct Notary Services

1. False. AR 27-55 paragraphs 1-7 and 2-2.
2. 10 USC 1044a.
3. Immediate supervision means under the direct guidance or management of another. Immediate supervision does not require a supervisor to be present at all times when the individual being supervised is performing his or her assigned duties, nor does it require a performance rating relationship. However, the supervisor and the person supervised must perform duty in the same general location (for example, in an SJA office or at Soldier Readiness Processing).
4. False. See the MCM, R.C.M. 307(b).
5. Never. AR 27-55 paragraph 3-3(a)(1).
6. False. AR 27-55 paragraph 4-3(c).
7. True. AR 27-55 paragraph 3-3(a)(12).
8. False. AR 27-55 paragraph 3-5(b).
9. False. AR 27-55 paragraph 4-5(b).
10. An Apostille is a standard certification provided under the Hague Convention for authenticating documents used in foreign countries. An Apostille streamlines the authentication of notarized documents sent between countries.

SPECIAL POWER OF ATTORNEY

PREAMBLE: This is a military Power of Attorney prepared pursuant to Title 10, United States Code, Section 1044b, and executed by a person authorized to receive legal assistance from the military service. Federal law exempts this power of attorney from any requirement of form, substance, formality, or recording that is prescribed for powers of attorney by the laws of a state, the District of Columbia, or a territory, commonwealth, or possession of the United States. Federal law specifies that this power of attorney shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the jurisdiction where it is presented.

KNOW ALL PERSONS BY THESE PRESENTS:

That I, JOE T. SOLDIER, of the State of Indiana, a member of the United States Armed Forces, currently at Fort Atterbury, Indiana, pursuant to Military Orders, do hereby appoint MOTHER O. SOLDIER, of Carrabassett Valley, Maine, my true and lawful attorney-in-fact to do the following in my name and in my behalf:

1. To endorse, cash and receive the proceeds of any check or other negotiable instrument, which is, made payable to me. This shall include, but not be limited to, the authority to receive, endorse, cash, or deposit negotiable instruments made payable to me and drawn upon the treasurer or other fiscal officer or depository of the United States or any state, possession, or territory of the United States.

2. To take possession and order the removal and shipment of my household goods, personal baggage, or other personal property and cause it to be shipped to any warehouse, depot, dock, or other place of storage or safekeeping, government or private, directed by orders of appropriate U.S. Government transportation officials, and to execute and deliver all necessary forms, papers, certificates and receipts to carry out the foregoing

3. To accept delivery of, receipt for, and/or clear through customs, my household goods and/or unaccompanied baggage, and to sign any and all documents, release, voucher, receipt, shipping ticket or other instrument necessary or convenient for such purpose.

4. To use, operate, insure, title, license, and register, in my name, with any state or governmental agency my 2002 Ford Ranger, Vehicle Identification Number ABC1238765.

Giving and granting individually unto said attorney full power and authority to do and perform all and any act, deed, matter and thing whatsoever in and about any of the specified particulars mentioned in the paragraph immediately above, as fully and effectually to all intents and purposes as I might and could do in my own person if personally present; and in addition thereto, I do hereby ratify and confirm each of the acts of my aforesaid attorney lawfully done pursuant to the authority herein above conferred.

I HEREBY AUTHORIZE MY ATTORNEY TO INDEMNIFY AND HOLD HARMLESS ANY THIRD PARTY WHO ACCEPTS AND ACTS UNDER OR IN ACCORDANCE WITH THIS POWER OF ATTORNEY.

This Power of Attorney shall become effective when I sign and execute it below. Further, unless sooner revoked or terminated by me, this Power of Attorney shall become NULL and VOID on October 27, 2005.

I intend for this to be a **DURABLE Power of Attorney**. This Power of Attorney will continue to be effective if I become disabled, incapacitated, or incompetent; or when the United States Government determines that I am in a military status of "missing," "missing in action," or "prisoner of war." All acts done by my Attorney hereunder shall have the same effect and inure to the benefit of and bind myself and my heirs as if I were competent, and not disabled, incapacitated, or incompetent.

I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician, based on that physician's examination, certifies in writing at a date subsequent to the date which this power of attorney is executed, that I am disabled from or incapable of exercising control over my person, property, personal affairs, or

POWER OF ATTORNEY OF JOE T. SOLDIER

-Cash Checks--Ship Household Goods--Receive Personal Property--Register Motor Vehicles-

Page 1 of 2

November 24, 2004

financial affairs. I authorize the physician who so certifies, to disclose my physical or mental condition to another person for purposes of this power of attorney. A third party who accepts this power of attorney, endorsed by proper physician certification of my disability or incapacity, is held harmless and fully protected from any action taken under this power of attorney.

Notwithstanding my inclusion of a specific expiration date herein, if on that specified expiration date I should be or have been properly certified, in writing, by a physician to be disabled from or incapable of exercising control over my person, property, personal affairs, or financial affairs, then this Power of Attorney shall remain valid and in full effect until sixty (60) days after I have recovered from such disability **UNLESS OTHERWISE REVOKED OR TERMINATED BY ME**. Furthermore, if on the above-specified expiration date, or during the sixty (60) day period preceding that specified expiration date, I should be or have been determined by the United States Government to be a military status of "missing," "missing in action," or "prisoner of war," then this Power of Attorney shall remain valid and in full effect until sixty (60) days after I have returned to the United States military control following termination of such status **UNLESS OTHERWISE REVOKED OR TERMINATED BY ME**.

I HEREBY RATIFY ALL THAT MY ATTORNEY SHALL LAWFULLY DO OR CAUSE TO BE DONE BY THIS DOCUMENT.

All business transacted hereunder for me or for my account shall be transacted in my name, and all endorsements and instruments executed by my attorney for the purpose of carrying out the foregoing powers shall contain my name, followed by that of my attorney and the designation "attorney-in-fact."

IN WITNESS WHEREOF, I sign, seal, declare, publish, make and constitute this as and for my Power of Attorney in the presence of the Notary Public witnessing it at my request this date, October 27, 2004.

JOE T. SOLDIER

WITH THE ARMED FORCES OF THE UNITED STATES
AT Fort Atterbury, Indiana

Subscribed, sworn to and acknowledged before me by **JOE T. SOLDIER**, who is known to me to be a member of the Armed Forces of the United States serving on Active Duty, on October 27, 2004. This acknowledgment is executed in my official capacity under the authority granted by Title 10, United States Code, Section 1044a, which also states that no seal is required on this acknowledgment.

JACK JEFFERSON
Sergeant First Class
Legal NCO UP AR 27-55, para 2-2a(3)

POWER OF ATTORNEY OF JOE T. SOLDIER

-Cash Checks--Ship Household Goods--Receive Personal Property--Register Motor Vehicles--
Page 2 of 2

November 24, 2004

PERSONNEL ACTION

For use of this form, see AR 600-8-6 and DA PAM 600-8-21; the proponent agency is ODCSPER

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Title 5, Section 3012; Title 10, USC, E.O. 9397.

PRINCIPAL PURPOSE: Used by soldier in accordance with DA PAM 600-8-21 when requesting a personnel action on his/her own behalf (Section III).

ROUTINE USES: To initiate the processing of a personnel action being requested by the soldier.

DISCLOSURE: Voluntary. Failure to provide social security number may result in a delay or error in processing of the request for personnel action.

1. THRU (Include ZIP Code)

SCMCA

2. TO (Include ZIP Code)

SPCMCA

3. FROM (Include ZIP Code)

Company Level Address

SECTION I - PERSONAL IDENTIFICATION

4. NAME (Last, First, MI)

SOLDIER REQUESTING SEPARATION

5. GRADE OR RANK/PMOS/AOC

6. SOCIAL SECURITY NUMBER

SECTION II - DUTY STATUS CHANGE (AR 600-8-6)

7. The above soldier's duty status is changed from _____ to _____ effective _____ hours, _____

SECTION III - REQUEST FOR PERSONNEL ACTION

8. I request the following action: (Check as appropriate)

<input type="checkbox"/> Service School (Enl only)	<input type="checkbox"/> Special Forces Training/Assignment	<input type="checkbox"/> Identification Card
<input type="checkbox"/> ROTC or Reserve Component Duty	<input type="checkbox"/> On-the-Job Training (Enl only)	<input type="checkbox"/> Identification Tags
<input type="checkbox"/> Volunteering For Oversea Service	<input type="checkbox"/> Retesting in Army Personnel Tests	<input type="checkbox"/> Separate Rations
<input type="checkbox"/> Ranger Training	<input type="checkbox"/> Reassignment Married Army Couples	<input type="checkbox"/> Leave - Excess/Advance/Outside CONUS
<input type="checkbox"/> Reassignment Extreme Family Problems	<input type="checkbox"/> Reclassification	<input type="checkbox"/> Change of Name/SSN/DOB
<input type="checkbox"/> Exchange Reassignment (Enl only)	<input type="checkbox"/> Officer Candidate School	<input checked="" type="checkbox"/> Other (Specify) Voluntary Request for Separation
<input type="checkbox"/> Airborne Training	<input type="checkbox"/> Asgmt of Pers with Exceptional Family Members	

9. SIGNATURE OF SOLDIER (When required)

10. DATE (YYYYMMDD)

SECTION IV - REMARKS (Applies to Sections II, III, and V) (Continue on separate sheet)

I request voluntary separation UP AR 635-200, para. 6-3a, for dependency. I am not under charges, investigation, pending separation under another chapter of AR 635-200, or in confinement. I request to be separated on the following date: _____. I understand that if I have not completed my military service obligation, I may be transferred to the individual ready reserve (IRR).

6 Encls

1. Request for separation
2. Statement about dependent
3. Statement about dependent
4. Statement about dependent
5. ERB
6. Education Counseling

SECTION V - CERTIFICATION/APPROVAL/DISAPPROVAL

11. I certify that the duty status change (Section II) or that the request for personnel action (Section III) contained herein -

☐ HAS BEEN VERIFIED ☐ RECOMMEND APPROVAL ☐ RECOMMEND DISAPPROVAL ☐ IS APPROVED ☐ IS DISAPPROVED

12. COMMANDER/AUTHORIZED REPRESENTATIVE

13. SIGNATURE

14. DATE (YYYYMMDD)

PERSONNEL ACTION

For use of this form, see AR 600-8-6 and DA PAM 600-8-21; the proponent agency is ODCSPER

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Title 5, Section 3012; Title 10, USC, E.O. 9397.

PRINCIPAL PURPOSE: Used by soldier in accordance with DA PAM 600-8-21 when requesting a personnel action on his/her own behalf (Section III).

ROUTINE USES: To initiate the processing of a personnel action being requested by the soldier.

DISCLOSURE: Voluntary. Failure to provide social security number may result in a delay or error in processing of the request for personnel action.

1. THRU (Include ZIP Code) Commander, SCMCA	2. TO (Include ZIP Code) Commander, SPCMCA	3. FROM (Include ZIP Code) Company Address
--	---	---

SECTION I - PERSONAL IDENTIFICATION

4. NAME (Last, First, MI) SOLDIER REQUESTING SEPARATION	5. GRADE OR RANK/PMOS/AOC	6. SOCIAL SECURITY NUMBER
--	---------------------------	---------------------------

SECTION II - DUTY STATUS CHANGE (AR 600-8-6)

7. The above soldier's duty status is changed from _____ to _____ effective _____ hours, _____

SECTION III - REQUEST FOR PERSONNEL ACTION

8. I request the following action: (Check as appropriate)

<input type="checkbox"/> Service School (Enl only)	<input type="checkbox"/> Special Forces Training/Assignment	<input type="checkbox"/> Identification Card
<input type="checkbox"/> ROTC or Reserve Component Duty	<input type="checkbox"/> On-the-Job Training (Enl only)	<input type="checkbox"/> Identification Tags
<input type="checkbox"/> Volunteering For Oversea Service	<input type="checkbox"/> Retesting in Army Personnel Tests	<input type="checkbox"/> Separate Rations
<input type="checkbox"/> Ranger Training	<input type="checkbox"/> Reassignment Married Army Couples	<input type="checkbox"/> Leave - Excess/Advance/Outside CONUS
<input type="checkbox"/> Reassignment Extreme Family Problems	<input type="checkbox"/> Reclassification	<input type="checkbox"/> Change of Name/SSN/DOB
<input type="checkbox"/> Exchange Reassignment (Enl only)	<input type="checkbox"/> Officer Candidate School	<input checked="" type="checkbox"/> Other (Specify) Request Voluntary Separation
<input type="checkbox"/> Airborne Training	<input type="checkbox"/> Asgmt of Pers with Exceptional Family Members	

9. SIGNATURE OF SOLDIER (When required)	10. DATE (YYYYMMDD)
---	---------------------

SECTION IV - REMARKS (Applies to Sections II, III, and V) (Continue on separate sheet)

I request voluntary separation UP AR 635-200, para. 6-3b, for hardship. I am not under UCMJ charges, investigation, pending separation under another chapter of AR 635-200, and I am not in confinement. I request to be separated on the following date: _____. I understand that if I have not completed my military service obligation I may be transferred to the individual ready reserve (IRR).

3 Encls

1. Request for Separation
2. ERB
3. DA Form 4856, Education Counseling.

SECTION V - CERTIFICATION/APPROVAL/DISAPPROVAL

11. I certify that the duty status change (Section II) or that the request for personnel action (Section III) contained herein -

☐ HAS BEEN VERIFIED ☐ RECOMMEND APPROVAL ☐ RECOMMEND DISAPPROVAL ☐ IS APPROVED ☐ IS DISAPPROVED

12. COMMANDER/AUTHORIZED REPRESENTATIVE SPCMCA	13. SIGNATURE	14. DATE (YYYYMMDD)
---	---------------	---------------------

PERSONNEL ACTION

For use of this form, see AR 600-8-6 and DA PAM 600-8-21; the proponent agency is ODCSPER

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Title 5, Section 3012; Title 10, USC, E.O. 9397.

PRINCIPAL PURPOSE: Used by soldier in accordance with DA PAM 600-8-21 when requesting a personnel action on his/her own behalf (Section III).

ROUTINE USES: To initiate the processing of a personnel action being requested by the soldier.

DISCLOSURE: Voluntary. Failure to provide social security number may result in a delay or error in processing of the request for personnel action.

1. THRU (Include ZIP Code)	2. TO (Include ZIP Code) Commander, Summary Court-Martial Convening Authority	3. FROM (Include ZIP Code) Company Address
----------------------------	---	---

SECTION I - PERSONAL IDENTIFICATION

4. NAME (Last, First, MI) SOLDIER REQUESTING SEPARATION	5. GRADE OR RANK/PMOS/AOC	6. SOCIAL SECURITY NUMBER
--	---------------------------	---------------------------

SECTION II - DUTY STATUS CHANGE (AR 600-8-6)

7. The above soldier's duty status is changed from _____ to _____ effective _____ hours, _____

SECTION III - REQUEST FOR PERSONNEL ACTION

8. I request the following action: (Check as appropriate)

<input type="checkbox"/> Service School (Enl only)	<input type="checkbox"/> Special Forces Training/Assignment	<input type="checkbox"/> Identification Card
<input type="checkbox"/> ROTC or Reserve Component Duty	<input type="checkbox"/> On-the-Job Training (Enl only)	<input type="checkbox"/> Identification Tags
<input type="checkbox"/> Volunteering For Oversea Service	<input type="checkbox"/> Retesting in Army Personnel Tests	<input type="checkbox"/> Separate Rations
<input type="checkbox"/> Ranger Training	<input type="checkbox"/> Reassignment Married Army Couples	<input type="checkbox"/> Leave - Excess/Advance/Outside CONUS
<input type="checkbox"/> Reassignment Extreme Family Problems	<input type="checkbox"/> Reclassification	<input type="checkbox"/> Change of Name/SSN/DOB
<input type="checkbox"/> Exchange Reassignment (Enl only)	<input type="checkbox"/> Officer Candidate School	<input checked="" type="checkbox"/> Other (Specify) Request Voluntary Separation
<input type="checkbox"/> Airborne Training	<input type="checkbox"/> Asgmt of Pers with Exceptional Family Members	

9. SIGNATURE OF SOLDIER (When required)	10. DATE (YYYYMMDD)
---	---------------------

SECTION IV - REMARKS (Applies to Sections II, III, and V) (Continue on separate sheet)

I request voluntary separation UP AR 635-200, Chapter 8, for pregnancy, I request a separation date of _____. However, I understand that the separation authority and my military physician will determine the separation date. I further understand that the separation date must no be later than 30 days before expected date of delivery, or the latest date my military physician will authorize me to travel, whichever is earlier. The following documents are attached as required by AR 635-200. I understand that if I have a military service obligation remaining that I may be transferred to the IRR.

8 Encls

1. Pregnancy counseling.
2. Pregnancy counseling checklist.
3. Certificate of pregnancy.
4. SF 88 (Medical Exam).
5. SF 92 (Medical History).
6. Education counseling.
7. ERB.

SECTION V - CERTIFICATION/APPROVAL/DISAPPROVAL

11. I certify that the duty status change (Section II) or that the request for personnel action (Section III) contained herein -

☐ HAS BEEN VERIFIED ☐ RECOMMEND APPROVAL ☐ RECOMMEND DISAPPROVAL ☐ IS APPROVED ☐ IS DISAPPROVED

12. COMMANDER/AUTHORIZED REPRESENTATIVE	13. SIGNATURE	14. DATE (YYYYMMDD)
---	---------------	---------------------

Commander, SCMCA

Appendix C

Answer Key for Administrative Law Exercises

DEPARTMENT OF THE ARMY
HEADQUARTERS, 3d BRIGADE COMBAT TEAM
54th INFANTRY DIVISION (MECHANIZED)
FORT ATTERBURY, INDIANA 46124-9000

DMSB-CO

17 Nov 04

MEMORANDUM FOR MAJ Paul T. Smith, HHC, 3d Brigade Combat Team, Fort Atterbury, IN
46124-9000

SUBJECT: Appointment of Investigating Officer

1. You are hereby appointed an investigating officer pursuant to AR 15-6 and AR 600-20 para. 4-14, to conduct an informal investigation into complaints that senior noncommissioned officers in CO A, 54th MSB, having been using coercion to sell prepaid legal services to junior enlisted soldiers in the company. A written complaint was submitted alleging the offenses and is attached.
2. In your investigation, all witness statements will be sworn. From the evidence, you will make findings whether any individual in the company violated AR 600-20 para. 4-14, and recommend a course of action as to what type of punishment if any, would be appropriate. You should also identify and report any need for training on the subject of "Relationships Between Soldiers of Different Ranks," amongst various individuals or groups of the company.
3. Submit your findings and recommendations in two copies on DA Form 1574 to this headquarters, ATTN: DMSB-CO, within 7 duty days.

Encl
as

STEVEN M. COHEN
COL, IN
Commanding

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

*IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS***SECTION I - APPOINTMENT**Appointed by Commander, 54th Infantry Division (Mechanized), Fort Atterbury, IN 46124-9000
(Appointing authority)on 13 Nov 04 (Date)
(Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)**SECTION II - SESSIONS**The (investigation) (board) commenced at Building 5213 Rm 5, Fort Atterbury, IN 46124-9000 at 0730
(Place) (Time)on 20 Nov 04 (Date)
(If a formal board met for more than one session, check here ☐. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)MAJ MARK CARON (PRESIDENT)
CPT DAVID RICHARDS (MEMBER)
1LT DEREK OLSEN (MEMBER)
CPT SHANE PETERSON (LEGAL ADVISOR)
1LT STEPHANIE CORLEONE (RECORDER)
SGT JAMES TONEY (REPORTER)
SFC MIGUEL TORRES (RESPONDENT)
CPT KURT SIMMONS (COUNSEL FOR RESPONDENT)

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 5-2 and 5-8a, AR 15-6.)

NA

The (investigating officer) (board) finished gathering/hearing evidence at 1615 on 20 Nov 04
(Time) (Date)
and completed findings and recommendations at 1640 on 20 Nov 04
(Time) (Date)**SECTION III - CHECKLIST FOR PROCEEDINGS**

A. COMPLETE IN ALL CASES		YES	NO ^{1/}	NA ^{2/}
1	Inclosures (para 3-15, AR 15-6)			
	Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)			
	a. The letter of appointment or a summary of oral appointment data?	X		
	b. Copy of notice to respondent, if any? (See item 9, below)	X		
	c. Other correspondence with respondent or counsel, if any?			X
	d. All other written communications to or from the appointing authority?	X		
	e. Privacy Act Statements (Certificate, if statement provided orally)?			X
	f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			X
	g. Information as to sessions of a formal board not included on page 1 of this report?			X
	h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?	X		

FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet.^{2/} Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

		YES	NO ^{1/}	NA ^{2/}
2	Exhibits (<i>para 3-16, AR 15-6</i>)			
	a. Are all items offered (<i>whether or not received</i>) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
	b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
	c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
	d. Are copies, descriptions, or depictions (<i>if substituted for real or documentary evidence</i>) properly authenticated and is the location of the original evidence indicated?	X		
	e. Are descriptions or diagrams included of locations visited by the investigating officer or board (<i>para 3-6b, AR 15-6</i>)?			X
	f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?	X		
	g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (<i>para 3-16d, AR 15-6</i>)?			X
3	Was a quorum present when the board voted on findings and recommendations (<i>paras 4-1 and 5-2b, AR 15-6</i>)?	X		
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (<i>Chapter 5, AR 15-6</i>)				
4	At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (<i>para 5-3b, AR 15-6</i>)?	X		
5	Was a quorum present at every session of the board (<i>para 5-2b, AR 15-6</i>)?	X		
6	Was each absence of any member properly excused (<i>para 5-2a, AR 15-6</i>)?			X
7	Were members, witnesses, reporter, and interpreter sworn, if required (<i>para 3-1, AR 15-6</i>)?	X		
8	If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (<i>para 5-2d, AR 15-6</i>)?			X
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (<i>Section II, Chapter 5, AR 15-6</i>)				
9	Notice to respondents (<i>para 5-5, AR 15-6</i>):			
	a. Is the method and date of delivery to the respondent indicated on each letter of notification?	X		
	b. Was the date of delivery at least five working days prior to the first session of the board?	X		
	c. Does each letter of notification indicate —			
	(1) the date, hour, and place of the first session of the board concerning that respondent?	X		
	(2) the matter to be investigated, including specific allegations against the respondent, if any?	X		
	(3) the respondent's rights with regard to counsel?	X		
	(4) the name and address of each witness expected to be called by the recorder?	X		
	(5) the respondent's rights to be present, present evidence, and call witnesses?	X		
	d. Was the respondent provided a copy of all unclassified documents in the case file?	X		
	e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			X
10	If any respondent was designated after the proceedings began (<i>or otherwise was absent during part of the proceedings</i>):			
	a. Was he properly notified (<i>para 5-5, AR 15-6</i>)?			X
	b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (<i>para 5-4c, AR 15-6</i>)?			X
11	Counsel (<i>para 5-6, AR 15-6</i>):			
	a. Was each respondent represented by counsel?	X		
	Name and business address of counsel:			
	CPT KURT SIMMONS, TRIAL DEFENSE SERVICE, BLDG. 2, FORT ATTERBURY, IN 46124-9000			
	(<i>If counsel is a lawyer, check here</i> <input checked="" type="checkbox"/>)			
	b. Was respondent's counsel present at all open sessions of the board relating to that respondent?	X		
	c. If military counsel was requested but not made available, is a copy (<i>or, if oral, a summary</i>) of the request and the action taken on it included in the report (<i>para 5-6b, AR 15-6</i>)?			X
12	If the respondent challenged the legal advisor or any voting member for lack of impartiality (<i>para 5-7, AR 15-6</i>):			
	a. Was the challenge properly denied and by the appropriate officer?			X
	b. Did each member successfully challenged cease to participate in the proceedings?			X
13	Was the respondent given an opportunity to (<i>para 5-8a, AR 15-6</i>):			
	a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?	X		
	b. Examine and object to the introduction of real and documentary evidence, including written statements?	X		
	c. Object to the testimony of witnesses and cross-examine witnesses other than his own?	X		
	d. Call witnesses and otherwise introduce evidence?	X		
	e. Testify as a witness?	X		
	f. Make or have his counsel make a final statement or argument (<i>para 5-9, AR 15-6</i>)?	X		
14	If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (<i>para 5-8b, AR 15-6</i>)?	X		
15	Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (<i>para 5-11, AR 15-6</i>)?	X		
FOOTNOTES: 1/ Explain all negative answers on an attached sheet. 2/ Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.				

SECTION IV - FINDINGS *(para 3-10, AR 15-6)*

The *(investigating officer) (board)*, having carefully considered the evidence, finds:

That SFC Miguel Torres sexually harassed PV1 Mindy Jones on 16 and 17 Oct 04, by telling her that if she had sex with him, he would see that she was promoted ahead of her peers. --- END ---

SECTION V - RECOMMENDATIONS *(para 3-11, AR 15-6)*

In view of the above findings, the *(investigating officer) (board)* recommends:

The board unanimously recommends that charges be preferred against SFC Torres with a view towards trial by court-martial and that he be relieved immediately from any and all supervisory positions.

SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

(Recorder)

(Investigating Officer) (President)

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in Inclosure _____, the undersigned do(es) not concur in the findings and recommendations of the board. (In the inclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclosure.)

(Member)

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)

DEPARTMENT OF THE ARMY
Headquarters, 1st Infantry Brigade
54th Infantry Division (Mechanized)
Fort Atterbury, Indiana 46124-9000

SKSW-CO

19 Nov 04

MEMORANDUM FOR CW3 Brian S. Ale, Headquarters and Headquarters Company, 1st Infantry Brigade, Fort Atterbury, Indiana 46124-9000

SUBJECT: Appointment as Investigating Officer – Line of Duty Investigation

1. You are hereby appointed an investigating officer pursuant to AR 600-8-4 and AR 15-6, to investigate the circumstances surrounding the illness of SPC Victor P. Doucette, 222-33-2145, Co A, 1/12th IN BN, 54th ID (M), Fort Atterbury, IN 46124-9000. SPC Doucette contracted the Ebola virus while on leave in a foreign country.
2. In your investigation, use formal procedures under AR 600-8-4 and when necessary AR 15-6. You will make a thorough investigation into the circumstances surrounding how SPC Souza contracted this rare disease.
3. Complete your investigation IAW AR 600-8-4 Section II. Should you desire legal counsel please contact the Administrative Law section at the Office of the Staff Judge Advocate at 555-0987. Ensure to include in your report, DA Form 2173, DD Form 261, and any other evidence you use in making your recommendation.

MICHAEL JONES
COL, IN
Commanding

References

ARMY REGULATIONS (ARs)

15-6	Procedures for Investigating Officers and Boards of Officers
25-11	Record Communications and the Privacy Communications System
25-33	The Standard Army Publications System (STARPUBS): Revision of the DA 12 series Forms, Usages, and Procedures
25-50	Preparing and Managing Correspondence
25-51	The Army Privacy Program
25-55	The Department of the Army Freedom and Information Act Program
25-400-2	The Modern Army Recordkeeping System (MARKS)
27-1	Judge Advocate Legal Services
27-3	Legal Assistance
27-10	Military Justice
27-20	Claims
27-40	Litigation
27-55	Authority of Armed Forces Personnel to Perform Notarial Acts
37-106	Finance and Accounting for Installations: Travel and Transportation Allowances
55-60	Official Table of Distances (Continental United States, Alaska, Hawaii, Canada, Canal Zone, Central America, Mexico, and Puerto Rico)
135-200	Active Duty for Training, Annual Training, and Active Duty Special Work of Individual Soldiers
135-210	Orders to Active Duty as Individuals During Peacetime
140-1	Army Reserve Mission, Organization, and Training
190-47	The US Army Correctional System
310-50	Authorized Abbreviations and Brevity Codes
380-5	Department of the Army Information Security Program
600-8-2	Suspension of Favorable Personnel Actions (FLAGS)
600-8-105	Military Orders
600-9	The Army Weight Control Program
600-20	Army Command Policy
600-85	Alcohol and Drug Abuse Prevention and Control Program
611-201	Enlisted Career Management Fields and Military Occupational Specialties
623-205	Enlisted Evaluation Reporting System
635-200	Enlisted Personnel
700-84	Issue and Sale of Personnel Clothing
710-2	Supply Policy Below the Wholesale Level
735-5	Policies and Procedures for Property Accountability
735-17	Accounting for Library Materials

DEPARTMENT OF THE ARMY PAMPHLETS (DA Pams)

25-11	Authorized Addresses for Electrically Transmitted Messages
25-51	The Army Privacy Program: System Notices and Exemption Rules
27-7	Military Justice Handbook - Guide for Summary Court-Martial Trial Procedure
27-9	Military Judges' Benchbook
27-17	Procedural Guide for Article 32(b) Investigating Officer
27-21	Administrative and Civil Law Handbook
27-26	Rules of Professional Conduct for Lawyers
27-50 series	The Army Lawyer
27-162	Claims
27-173	Trial Procedure
600-8	Management and Administrative Procedures "In Brief"

FIELD MANUAL (FM)

25-100	Training the Force
25-101	Battle Focused Training

SOLDIER TRAINING PUBLICATIONS

21-1-SMCT	Soldier's Manual of Common Tasks (Skill Level 1)
21-24-SMCT	Soldier's Manual of Common Tasks (Skill Levels 2, 3, and 4)

MISCELLANEOUS PUBLICATION

8-2	Joint Federal Travel Regulations, Vol 2; DOD Civilian Personnel
9-2	Manual for Courts-Martial
13-1	DOD Financial Management Regulation, Volume & Part A
FSS 76	Federal Supply Schedule Catalog and /or Price List Information for Ordering Activities: PART II: Law Books, Tax, Reporting Periodicals and Microfilmed Library Systems

OTHER PUBLICATIONS

Administrative Guide for Appellate Review (JALS-CC)
LAAWS III Automated Legal Services Deskbook
LAAWS Office Administration Module User's Guide
Affirmative Claims Management Program User's Guide
Personnel Claims Management Program User's Guide
Tort and Special Claims Management Program User's Guide

DEPARTMENT OF THE ARMY (DA) FORMS

31	Request and Authority for Leave
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268	Report to Suspend Favorable Personnel Actions (FLAG)
444	Inventory Adjustment Report
1208	Report of Claims Officer
1574	Report of Proceedings by Investigating Officer/Board of Officers
1666	Claims Settlement Agreement
1667	Claims Journal for (Personnel) (Tort) Affirmative) Claims
1668	Small Claims Certificate
2028	Recommended Changes to Publications and Blank Forms
2166-7	Noncommissioned Officer Evaluation Report (NCO-ER)
2166-7-1	NCO Counseling Checklist /Record
2465	Legal Assistance Client Interview Record
2627	Record of Proceedings Under Article 15, UCMJ
2627-2	Record of Supplementary Action Under Article 15, UCMJ
2765-1	Request for Issue or Turn-in
2823	Sworn Statement
2938	Affirmative Claims Report
3078	Personnel Clothing Request
3161	Request for Issue or Turn-In
3169	Report of Judicial and Disciplinary Activity in the Army
3822	Report of Mental Status Evaluation
3973	Voucher Register of Library Materials
4187	Personnel Action
4430	Report of Result of Trial
4460	Army Law Library Shelf-List Card
4916	Certificate of Service/Attempted Service
4917	Advice to Appellate Rights
4918	Petition for Grant of Review on the United States Court of Military Appeals
4919	Request for Final Action
5110	Article 15, Reconciliation Log
5111	Summary Court-Martial Rights Notification/Waiver Statement
5138	Separation Action Control Sheet
5164	Hands-on Evaluation
5165	Field Expedient Squad Book

DEPARTMENT OF DEFENSE (DD) FORMS

173/1	Joint Messageform (Black)
173/2 Joint	Messageform (OCR Red)
173/3 Joint	Messageform (OCR Blue)
250	Material Inspection and Receiving Report
453-1	Travel Orders
455	Report of Proceedings to Vacate Suspension at a General Court-Martial
457	Investigating Officer's Report
458	Charge Sheet

490	Record of Trial (Verbatim)
491	Summarized Record of Trial
491-1	Summarized Record of Trial - Article 39(a) Session
494	Court-Martial Data Sheet
497	Confinement Order
870	Request for Fiscal Information Concerning Transportation Requests,
Bills	
	of Lading, and Meal Tickets
1131	Cash Collection Voucher
1155	Orders for Supplies or Services
1348-1	DOD Single Line Item Release/Receipt Document
1840/1840R	Joint Statement of Loss or Damage at Delivery
1841	Government Inspection Report
1842	Claims for Loss or Damage to Personal Property Incident
1843	Demand on Carrier/Contractor
1844	List of Property and Claims Analysis Chart
2329	Record of Trial by Summary Court-Martial
2330	Waiver/Withdrawal of Appellate Rights in General and Special
	Courts-Martial Subject to Review by a Court of Military Review
2331	Waiver/Withdrawal of Appellate Rights in General Courts-Martial
Subject	
	to Examination in the Office of the Judge Advocate General

STANDARD FORMS (SF)

88	Report of Medical Examination
93	Report of Medical History
95	Claim for Damages, Injury or Death
135	Records Transmittal and Receipt
135A	Records Transmittal and Receipt (Continuation)
703	TOP SECRET Cover Sheet
704	SECRET Cover Sheet
705	CONFIDENTIAL Cover Sheet
1034	Public Voucher for Purchases and Services Other Than Personal
1145	Voucher for Payment Under Federal Tort Claims Act
1156/1156a	Public Voucher for Fees and Mileage of Witness
1157/1157a	Claims for Witness Attendance Fees, Travel, and Miscellaneous
Expenses	
1203	U.S. Government Bill of Lading-Privately Owned Personal Property

DEPARTMENT OF THE ARMY (DA) LABELS

87	FOR OFFICIAL USE ONLY Cover Sheet
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OPTIONAL FORMS (OF)

41 Routing and Transmittal Slip

POSTAL SERVICE (PS) FORM

3811 Domestic Return Receipt